



Chorus Limited  
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3 April 2020

Commerce Commission  
44 The Terrace  
Wellington 6140

Attention: Simon Thomson, Head of Telecommunications

## **NOTICE OF FORCE MAJEURE**

### **Introduction**

Chorus Limited (**Chorus**) is subject to the undertakings given in favour of the Crown set out in the Chorus Limited Deed of Open Access Undertakings for Fibre Services 2011 (**Fibre Deed**).

This is a Force Majeure Notice in accordance with clause 15 of the Fibre Deed.

### **Nature of the Force Majeure Event**

On 25 March 2020 at 11:59 pm New Zealand moved to COVID-19 Alert Level 4. The movement to Alert Level 4 together with the impacts of the COVID-19 epidemic in New Zealand constitute the Force Majeure Event.

### **The likely effect of the Force Majeure Event**

Chorus is reducing non-essential field activity to support the provision of essential telecommunications services. This involves Chorus focusing on the priorities set out in the Chorus Field Activity Guidance which was communicated to the NZ telecommunications industry on 25 March, which is attached as Appendix A.

All services and activities other than those identified as continuing in Appendix A, will either not be provided and related obligations not performed, or will be provided and performed on a discretionary basis if Chorus has sufficient resource available to do so, for the duration of the Force Majeure Event.

This reprioritisation of services and activities will result in Chorus failing to meet its obligation under clause 6.2 of the Fibre Deed to make the Input Services available. Chorus' failure to make the Input Services available may also affect other obligations including the obligation to supply these services to the Equivalence standard and in accordance with non-discrimination. The Input Services in question are the Direct Fibre Access Service, the PON Fibre Access Service and the Central Office and POI Co-location Service.

For clarity, subject to developments in the Force Majeure Event it is our intention to continue to provide and support existing instances of Input Services in accordance with our obligations. It is new instances of Input Services which may not be available as a result of the reprioritisation of field activity.

**Next steps**

Chorus will do all it reasonably can to meet its obligations under the Fibre Deed, as soon as is practicable. The duration of the Force Majeure event is unknown. The COVID-19 Alert Level 4 will remain in place for at least 4 weeks and it may be extended by the Government. Chorus' ability to perform its clause 6.2 obligations under the Fibre Deed will be impacted until the alert level is reduced, and for a period beyond the reduction of the alert level depending on the circumstances.

Our guiding principle is to operate the Chorus network as an essential service in first class condition from a capacity and performance perspective. We are constantly monitoring the evolving environment in which we're operating at this time, and we will keep you updated as to any change of status arising from further developments.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Julian Kersey', with a stylized flourish at the end.

Julian Kersey  
**Manager Regulatory and Policy Affairs**  
**Chorus New Zealand Limited**



## Appendix A

### Chorus Field Activity Guidance released 26 March 2020

With the country moving to a state of lockdown Chorus will reduce non-essential field activity while still maintaining its obligations as an essential service provider. While Chorus is an essential industry, not all our field work is considered essential in the context of a Government objective to isolate people at home and eliminate the risks of spreading Covid.

MBIE Deputy Chief Executive Paul Stocks has said that purpose of essential business is to maintain the necessities of life, not maintain life or business as usual. Essential business, essential services, and essential activity means in alignment with the list of essential businesses as defined by the Government in its Covid-19 communications <https://covid19.govt.nz/government-actions/covid-19-alert-level/essential-businesses/>.

The guidance below represents the objective status that we will immediately start working towards noting that it may take several days to transition to this state for some workstreams. Work should always be undertaken consistent with relevant H&S guidance.

It is likely the guidance below will continue to evolve over the next few days. We note that this list is not exhaustive, and we will be providing further detail and clarification over the coming days. We will be looking to align these processes with other LFCs where possible, but we believe that we need to act with a degree of urgency.

#### Principles:

- Chorus network continues to operate as an essential service in first class condition from a capacity and performance perspective.
- Improving the capability and coverage of the Chorus network is not a priority objective during the current lockdown.
- We will keep the workforce and our customers safe by maintaining social distancing and use of PPE for essential work.
- We will minimise regional travel.
- We will minimise collateral impact to the broader national ecosystem (utilities, traffic control, RCA's, waste operations, transport operators etc).
- Have consideration to personnel that may be at risk due to age or underlying health factors.
- Back office support functions can work from home to minimise the continued operation of workplaces.

#### Restoration activity

- Restoration activity should continue as usual unless that work is inconsistent with the principles of the lockdown. Any queries should be referred to a Chorus field manager.

## **Build activity to Stop**

- UFB2/2+ Communal Build – make sites safe to RCA satisfaction, maintain regular site inspections and maintenance as necessary to keep the sites safe.
- UFB2/2+ communal network FFP commissioning and handover – areas on the cusp of release to enable service ordering NGA connections will not be made available.
- Poles test and tag programme.
- Proactive pole replacement. Work continues to replace poles at risk of falling
- PSTN Migration. Two inflight sites (LTN, LCN) to be completed. New sites to be suspended
- Subdivision, ROW and MDU build
- Sales to third party move network requests
- Most renewal and maintain service activity unless network is at risk of immediate failure
- Network grooming activity
- Roadworks plant relocations unless RCA activity is continuing for safety or essential transportation routes.

## **Build activity to Continue**

- Customer fibre build linked to service provisioning requirements for essential businesses, including RCG connections
- UFB augmentation related to connection where no fixed broadband service exists
- Roadworks plant relocations where RCA activity is continuing
- Layer 2 capacity augmentation, risk assess jobs requiring travel and accommodation and only undertake if timing is critical
- RSP Handover links and capacity increases that do not require major COLO infrastructure build.
- Continue with design and quote activities for new jobs and close out jobs where field activities can be deemed complete. E.g. records, billing, UFB handover documentation. NB Workforce to adhere to working from home principles rather than keeping offices operating.
- Customer Fibre Build and build for Smart Locations as agreed by exception
- Building and engineering services work to the extent necessary to keep the network operating.

## **Connect Activity to Stop**

- Non-essential activity inside customer premises e.g. Move ONT, install jack point or additional ONTs
- NGA connect where the customer has an existing fixed line broadband service – exception noted below
- Chorus driven copper to fibre migration and pre connect activity
- Greenfield pre-connect for housing under construction

- All access related product variants to stop unless meeting the criteria to continue below, e.g. DFAS, M18, Smart Locations, NONU, Rural fibre connection etc.

## **Connect Activity to Continue**

- NGA and Copper connect where the customer has no existing fixed line broadband service e.g. greenfield new connect order
- NGA and Copper connect where the customer has "Essential Activity" requirements e.g. is an Essential Business, or has home educational requirements that are not met by the existing service
- NGA and Copper connect for approved medical related escalations
- Upgrade ADSL to VDSL where no customer premises work is required

## **Property and Building Services Activity to Stop**

- Build work for future growth e.g. DC powerplant expansion. In flight projects will be made safe and stopped
- Build work for end of life replacement with low consequences of failure. In flight projects will be made safe and stopped
- Non-critical reported faults e.g. light bulb replacements
- Maintenance routines with low risk if deferred
- Planned capacity upgrades e.g. switchboards, rectifiers and air-conditioning upgrades
- External building cleaning, painting etc
- Graffiti removal
- Planned building and track projects. In flight projects will be made safe and stopped
- Winter preparation
- Routine building & grounds maintenance
- Asset condition assessments
- Upgrade projects to corporate office locations e.g. carpet replacement, painting
- Asset condition assessments
- All audit and equipment grooming projects have been put on hold

## **Property and Building Services Activity to Continue**

- Reactive fault repairs to critical infrastructure or facilities e.g. generator, DC powerplant, BCP site, equipment alarms
- Build project work where there is critical network risk of failure or congestion e.g. failed batteries, power supporting critical inside plant build
- Critical equipment maintenance routines – e.g. generator maintenance, air dryer maintenance, cooling tower dosing.
- Hygiene related cleaning and maintenance (major sites only with high traffic)
- Urgent reactive maintenance with H&S, resilience or network implications only
- Urgent weathertightness repairs.
- Door security alarm callouts and door repairs
- Restocking of diesel for emergency generators
- Customer fibre build & service provisioning requirements deemed critical
- Continue with design and quote activities for new jobs, and close out paperwork for completed jobs