

Specified Points of Interconnection – final decision to amend the s 231 notice

Reasons Paper

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Glossary

Act	Telecommunications Act 2001
CIP	Crown Infrastructure Partners
End-user	In relation to a telecommunications service, means a person who is the ultimate recipient of that service or of another service whose provision is dependent on that service
FFLAS	Fibre fixed line access service
ID	Information Disclosure
NIPA	Network Infrastructure Project Agreement
POI	Point of Interconnection
POI Area	Has the same meaning as in the Fibre Information Disclosure Determination 2021
Regulated fibre service provider	A person prescribed by the Governor-General as being subject to regulation under s 226 of the Act
SPOI	A POI which has been prescribed by the Commission under section 231 of the Act

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Introduction

1. Section 231 of the Telecommunications Act 2001 (**Act**) gives the Commerce Commission (**Commission**) the power to prescribe, by public notice, points of interconnection (**POIs**) for the purpose of establishing fibre handover points. A POI that has been prescribed under section 231 is a “specified point of interconnection” (**SPOI**).
2. We published our initial [Notice of points of interconnection under section 231 of the Telecommunications Act 2001 \(initial notice\)](#) on 19 December 2019 and amended it on 16 February 2023.
3. We published our [Specified Points of Interconnection – Consultation paper on amending s 231 notice \(Consultation Paper\)](#) on 19 December 2023 seeking views on our draft decision to amend the s 231 notice to:¹
 - 3.1 prescribe for Chorus three additional POIs;
 - 3.2 clarify the POI Area descriptions for the Frankton (FJN), Hamilton (HN), and New Plymouth (NU) SPOIs; and
 - 3.3 correct the spelling of Feilding for the POI Area name of Chorus’ Palmerston North Exchange (PM) SPOI.
4. The purpose of this reasons paper (**Reasons Paper**) is to communicate our final decision and our reasons for deciding to prescribe Chorus Limited’s (**Chorus**) three additional POIs. In making our final decision, we have considered Chorus’ change request under our SPOI framework for exercising our powers under s 231 of the Telecommunications Act (the **framework**).²
5. This paper is structured as follows:
 - 5.1 Our process;
 - 5.2 Final Decision to prescribe Chorus POIs:
 - 5.2.1 Final decision;
 - 5.2.2 Chorus’ change request;
 - 5.2.3 Submissions on our draft decision;
 - 5.3 Reasons for our decision; and

¹ Commerce Commission “[Specified Points of Interconnection – Consultation paper on amending s 231 notice December 2023](#)” (19 December 2023).

² Commerce Commission, “Specified points of interconnections – Framework for exercising our powers under s231 of the Telecommunications Act 2001” (16 February 2023), available at https://comcom.govt.nz/_data/assets/pdf_file/0029/306938/Specified-points-of-interconnection-Framework-for-amending-s-231-notice-16-February-2023.pdf

5.4 Attachment – List of SPOIs.

6. The Attachment A – List of SPOIs sets out the updated full list of SPOIs, including the three additional POIs we have decided to prescribe. Note that we consider the column UFB geographic area(s) to be a list of the POI Areas,³ and we have included an additional column setting out the date the POI was prescribed by the Commission under s 231.

Our process

7. We have followed the process laid out in the framework for how we would consider amendments to the s 231 notice.
8. On 19 December 2023 we published a consultation paper seeking views on our draft decision. We received one submission from Chorus. The submission was provided on 23 February 2023.
9. Table 1.1 below provides a timeline of the process we have followed.

Table 1.1 Timeline of process

Key step	Date
Chorus submitted change request	3 October 2023
Consultation Paper published	19 December 2023
Submissions on Consultation Paper	23 February 2024
Reasons Paper and s 231 notice published	27 March 2024
Notice of SPOIs published in the <i>Gazette</i>	27 March 2024

Final decision to amend the s 231 notice

10. Our final decision (unchanged from our draft) is to amend the s 231 notice to prescribe three additional POIs for Chorus, amend the description of the POI Areas for Chorus' Frankton (FJN), Hamilton (HN), and New Plymouth (NU) SPOIs, and correct the name of Feilding, as set out in Table 1.2 below.

Table 1.2 Proposed changes

POI Identifier	Name	UFB geographic area (POI Area)	Region	Proposed change
CLE	Claudelands	Hamilton, Tokoroa, Cambridge and Te Awamutu	Waikato	New SPOI
FJN	Frankton Exchange	Hamilton, Tokoroa, Cambridge and Te Awamutu	Waikato	POI Area clarification

³ Commerce Commission [Fibre Information Disclosure Determination 2021](#) as amended 28 July 2022, page 23.

POI Identifier	Name	UFB geographic area (POI Area)	Region	Proposed change
HN	Hamilton Exchange	Hamilton, Tokoroa, Cambridge and Te Awamutu	Waikato	POI Area clarification
GLT	Gleniti	Timaru	Canterbury	New SPOI
PM	Palmerston North Exchange	Palmerston North and Feilding	Manawatu-Whanganui	POI Area spelling correction
SWO	Spotswood	New Plymouth and Hawera	Taranaki	New SPOI
NU	New Plymouth Exchange	New Plymouth and Hawera	Taranaki	POI Area clarification

11. The remainder of this section sets out details of Chorus' change request, the submissions received and the reasons for our final decision.

Chorus' change request

Additional SPOIs

12. Chorus submitted its request for additional SPOIs to the Commission on 3 October 2023. It requested that we amend the s 231 notice to prescribe three additional POIs within existing POI Areas.⁴
13. In its request Chorus noted it had already started an internal process to provision the locations with commissioning likely to be late 2024, provided the additional POIs are prescribed by the Commission.

POI Area clarification

14. Chorus confirmed in its submission on our draft decision that its intention was not to create new POI areas or extend current POI areas, but to update the s 231 Notice to reflect a change that was already made and recognised by Crown Infrastructure Partners (CIP) shortly before the new regulatory regime came into effect:⁵
- 14.1 for Hamilton to include Cambridge, Tokoroa and Te Awamutu;
- 14.2 for Frankton to include Cambridge, Tokoroa and Te Awamutu; and
- 14.3 for New Plymouth to include Hawera.

⁴ Chorus, "Letter to the Commerce Commission", "Specified points of interconnection (SPOIs) – request to prescribe additional SPOIs" (3 October 2023) and "UFB Handover site capacity report" (July 2023).

⁵ Chorus submission on SPOI consultation, 23 February 2024, para 10

Chorus reasons for the change

15. Chorus provided the following reasons in its request for adding these POIs:
 - 15.1 decisions have largely been driven by network architecture requirements and customer demand as well as residual obligations under the NIPA;
 - 15.1.1 Claudelands is proposed to address immediate customer demand and RSPs want a handover at this site as there is also a Tuatahi First Fibre SPOI and co-locating is more efficient;
 - 15.1.2 Gleniti and Spotswood are proposed to meet future demand and lessen reliance on third party sites; and
 - 15.2 it considers that these reasons are consistent with those made for the additional nine SPOIs approved by the Commission on 16 February 2023.
16. Chorus also clarified in relation to the changes for Frankton (FJN), Hamilton (HN), and New Plymouth (NU) that these POI areas were extended and recognised by CIP shortly before the new regulatory framework came into effect.

Industry process

17. Chorus stated it undertook consultation with the industry on these three additional proposed POIs from 9 to 25 August 2023 and has published the outcome on its Service Provider website.⁶
18. Chorus noted that respondents were supportive of creating more SPOIs in general with all but one specifically supporting the creation of these three specific SPOIs. One respondent said it was unsure if the specific POIs would be useful at this stage.⁷

Submission on our draft decision

19. Chorus agreed with the Commission's draft decision, particularly, to prescribe the three additional POIs and not to impose any conditions on the change request.
20. It indicated it is concerned over the length of time it has taken for the Commission to reach a decision and encourages consideration of a speedier process. Chorus considered the process is drawn out and creates an extended period of uncertainty.⁸ As stated in our response to submissions on our framework, s 231(3) requires us to amend the initial notice in the manner in which it was made, which includes consulting on our draft decision to amend the s 231 notice.⁹ Our framework for exercising our powers under s 231 of the Telecommunications Act was published on 16 February 2023. In reaching our final decision, we have followed this process.

⁶ A registered account is required to access this website.

⁷ Chorus, "Specified points of interconnection (SPOIs) – request to prescribe additional SPOIs" (3 October 2023), at [42].

⁸ Chorus submission on SPOI consultation, 23 February 2024, para 6

⁹ Commerce Commission, Specified points of interconnection – Framework for amending s 231 notice – Response to submissions, 16 February 2023, para 19-26

21. Chorus submitted that the changes to the three POI Area geographic areas described changes that were a clarification of changes already made and recognised by Crown Infrastructure Partners shortly before the new regime was introduced and not a new “POI Area extension” as could be implied by our consultation paper.¹⁰ We agree with this and have amended the change request to reflect it as a clarification.

Reasons for our decision to amend the s 231 notice

Additional SPOIs

22. In reaching our decision, we are required to evaluate the change request against the Act and use the framework as our guide.
23. We have also had regard to Chorus’ consultation with industry, where respondents were generally supportive of the three additional SPOIs. We acknowledge that access seekers have had an opportunity to provide input to Chorus’ proposal. However, we consider broader consultation (such as that conducted with our draft decision paper) is an important part of the process so that proper regard of the impact on access seeker’s networks is taken into consideration.
24. In our view, prescribing each of the three additional SPOIs promotes the long-term benefit of end-users in markets for fibre fixed line access services by promoting outcomes produced in workably competitive markets by:
- 24.1 easing capacity constraints at existing SPOIs and planning for future growth (s 162(a)); and
- 24.2 ensuring services are of a quality that end-users demand by improving resilience to spread risk where total end-user connections reach a threshold and to provide traffic load distribution across multiple locations (s 162(b)).
25. In terms of the requirements of s 166(2), and specifically s 166(2)(b):
- 25.1 where third parties are located close to the three additional POI locations, we believe they would have the ability to develop and offer backhaul services in a reasonably short timeframe, thereby providing competitive constraint in markets for intra-candidate/inter-candidate area and national backhaul services;¹¹ and
- 25.2 we also believe that geographically consistent pricing under s 201 of the Act may provide a degree of pricing constraint on intra-area candidate area backhaul ICABS.¹²

¹⁰ Chorus submission on SPOI consultation, 23 February 2024, para 10

¹¹ We note that, as part of information gathered during our backhaul study in 2019, we are unaware of any impediments to competitive backhaul being established or expanded at Claudelands, Gleniti, and Spotswood when demand eventuates.

¹² For further background information on intra candidate area backhaul services (ICABS), see Chorus’ website, available at <https://sp.chorus.co.nz/product/intra-candidate-area-backhaul-icabs/overview>.

26. Overall, when considering 166(2)(a) alongside 166(2)(b), we find the requirements of s 166(2) are satisfied.

POI Area clarification

27. As set out in our draft decision, we accept Chorus' explanation in its clarification email that the POI Area changes for Frankton (FJN), Hamilton (HN), and New Plymouth (NU) were recognised by CIP shortly before the new regulatory framework came into effect and were not captured in our last amendment to the s 231 notice.
28. We consider that this change meets the purpose of s 231(4)(a) as an amendment of a SPOI for a technical purpose. It enables Chorus to provide bitstream service to towns where it has fibre network coverage by including them in existing POI Areas.

Conditions

29. Our decision, which is unchanged from the draft, is to not impose any conditions on Chorus' change request (ie, conditions that must be met between approving a change request and amending the s 231 notice). We consider that, in the context of the current change request, a condition is not necessary to best give effect to the matters outlined in s 166(2) (including the s 162 purpose).

Attachment A – List of SPOIs

Chorus Limited points of interconnection

POI Identifier	Name	UFB geographic area (POI Area)	Region	Date prescribed
AR	Ashburton Exchange	Ashburton	Canterbury	19/12/2019
AVO	Avonhead Exchange	Christchurch, Rangiora and Rolleston	Canterbury	16/02/2023
BM	Blenheim Exchange	Blenheim	Marlborough	19/12/2019
CH	Christchurch Exchange	Christchurch, Rangiora and Rolleston	Canterbury	19/12/2019
CLE	Claudelands	Hamilton, Tokoroa, Cambridge and Te Awamutu	Waikato	27/03/2024
CPC	Courtenay Place Exchange	Wellington	Wellington	19/12/2019
DN	Dunedin Exchange	Dunedin	Otago	19/12/2019
FG	Feilding Exchange	Palmerston North and Feilding	Manawhatu-Whanganui	19/12/2019
FOR	Forrest Hill Exchange	Auckland, Pukekohe, Waiheke Island and Waiuku	Auckland	19/12/2019
FJN	Frankton Exchange	Hamilton, Tokoroa, Cambridge and Te Awamutu	Waikato	19/12/2019
GS	Gisborne Exchange	Gisborne	Gisborne	19/12/2019
GLF	Glenfield Exchange	Auckland, Pukekohe, Waiheke Island and Waiuku	Auckland	19/12/2019
GLT	Gleniti	Timaru	Canterbury	27/03/2024
GM	Greymouth Exchange	Greymouth	West Coast	19/12/2019
HN	Hamilton Exchange	Hamilton, Tokoroa, Cambridge and Te Awamutu	Waikato	19/12/2019
HBN	Hastings Exchange	Napier and Hastings	Hawke's Bay	19/12/2019
IN	Invercargill Exchange	Invercargill	Southland	19/12/2019

POI Identifier	Name	UFB geographic area (POI Area)	Region	Date prescribed
JV	Johnsonville Exchange	Wellington	Wellington	16/02/2023
KNG	Kensington Exchange	Whangarei	Northland	19/12/2019
LIN	Linwood Exchange	Christchurch, Rangiora and Rolleston	Canterbury	16/02/2023
LVN	Levin Exchange	Levin	Manawatu-Whanganui	19/12/2019
LYE	Lynmore Exchange	Rotorua	Bay of Plenty	16/02/2023
MAW	Marewa Exchange	Napier and Hastings	Hawke's Bay	19/12/2019
MS	Masterton Exchange	Masterton	Wellington	19/12/2019
MDR	Mayoral Drive Exchange	Auckland, Pukekohe, Waiheke Island and Waiuku	Auckland	19/12/2019
MOD	Mt Eden Exchange	Auckland, Pukekohe, Waiheke Island and Waiuku	Auckland	19/12/2019
MRE	Mangere Exchange	Auckland, Pukekohe, Waiheke Island and Waiuku	Auckland	16/02/2023
MSY	Massey Exchange	Auckland, Pukekohe, Waiheke Island and Waiuku	Auckland	16/02/2023
NA	Napier Exchange	Napier and Hastings	Hawke's Bay	19/12/2019
NN	Nelson Exchange	Nelson	Nelson	19/12/2019
NU	New Plymouth Exchange	New Plymouth and Hawera	Taranaki	19/12/2019
NVY	North East Valley Exchange	Dunedin	Otago	16/02/2023
OTE	Otumoetai Exchange	Tauranga	Bay of Plenty	16/02/2023
OU	Oamaru Exchange	Oamaru	Otago	19/12/2019
PM	Palmerston North Exchange	Palmerston North and Feilding	Manawatu-Whanganui	19/12/2019
PRM	Paraparaumu Exchange	Paraparaumu and Kapiti	Wellington	19/12/2019
POY	Ponsonby Exchange	Auckland, Pukekohe, Waiheke Island and Waiuku	Auckland	19/12/2019
PRO	Porirua Exchange	Wellington	Wellington	19/12/2019

POI Identifier	Name	UFB geographic area (POI Area)	Region	Date prescribed
QST	Queenstown Exchange	Queenstown	Otago	19/12/2019
RO	Rotorua Exchange	Rotorua	Bay of Plenty	19/12/2019
SOD	South Dunedin Exchange	Dunedin	Otago	19/12/2019
STK	Stoke Exchange	Nelson	Nelson	16/02/2023
SWO	Spotswood	New Plymouth and Hawera	Taranaki	27/03/2024
TPO	Taupo Exchange	Taupo	Waikato	19/12/2019
TG	Tauranga Exchange	Tauranga	Bay of Plenty	19/12/2019
TU	Timaru Exchange	Timaru	Canterbury	19/12/2019
WKW	Waikiwi Exchange	Invercargill	Southland	19/12/2019
WN	Wellington Exchange	Wellington	Wellington	19/12/2019
WG	Whanganui Exchange	Whanganui	Taranaki	19/12/2019
WR	Whangarei Exchange	Whangarei	Northland	19/12/2019
WHK	Whakatane Exchange	Whakatane	Bay of Plenty	19/12/2019

Enable Networks Limited points of interconnection

POI Identifier	Name	UFB geographic area (POI Area)	Region	Date prescribed
HRB	Hornby	Christchurch, Rangiora and Rolleston	Canterbury	19/12/2019
RIC	Riccarton	Christchurch, Rangiora and Rolleston	Canterbury	19/12/2019

Northpower Fibre Limited points of interconnection

POI Identifier	Name	UFB geographic area (POI Area)	Region	Date prescribed
ALX	Alexander St	Whangarei	Northland	19/12/2019

Tuatahi First Fibre points of interconnection

POI Identifier	Name	UFB geographic area (POI Area)	Region	Date prescribed
HME	Hamilton East	Hamilton, Tokoroa, Cambridge and Te Awamutu	Waikato	19/12/2019
HMW	Hamilton West	Hamilton, Tokoroa, Cambridge and Te Awamutu	Waikato	19/12/2019
NPL	New Plymouth	New Plymouth and Hawera	Taranaki	19/12/2019
TGE	Tauranga East	Tauranga	Bay of Plenty	19/12/2019
TGW	Tauranga West	Tauranga	Bay of Plenty	19/12/2019
WAN	Whanganui	Whanganui	Manawatu-Whanganui	19/12/2019