

IN THE MATTER

of the Resource Management Act 1991 ("**RMA**")

AND

IN THE MATTER

of the Proposed Otago Regional Policy Statement
2021 (Non-freshwater parts) ("**PORPS**")

**MEMORANDUM OF COUNSEL ON BEHALF OF
SPARK NEW ZEALAND TRADING LTD, VODAFONE NEW ZEALAND LTD,
CHORUS NEW ZEALAND LTD**

14 DECEMBER 2022

**Russell
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MAY IT PLEASE THE PANEL

Introduction

1. This memorandum is filed on behalf of Spark New Zealand Trading Limited, Vodafone New Zealand Limited and Chorus New Zealand Limited (together the "**Telecommunication Companies**") in relation to the planning evidence lodged by Christopher Mark Horne. Mr Horne prepared the Telecommunication Companies' submissions on the PORPS in 2021 and has subsequently provided expert planning evidence on behalf of the Telecommunication Companies.¹
2. Mr Horne's evidence dated 23 November 2022 on Chapter 11 appropriately noted at paragraph 1.8 that there was an indirect connection between himself and some of the s42A authors for Otago Regional Council ("**ORC**"):

My evidence relates to s42A reports on Chapter 1 (Felicity Boyd), Chapters 12 and 14 (Andrew McLennan) and Chapter 13 (Angela Fenemor) who are all employees of Incite (Ch-Ch) Limited. Incite is a group of three separate limited liability companies with joint branding, a joint website and a cooperative relationship. However, we remain as separate companies with no financial linkages and I have had no discussions with these reporting officers in regard to their s42A reports and/or supplementary evidence statements, the Telecommunications Submitters' submission or the preparation of this evidence.

3. The purpose of this memorandum is to provide further detail of that indirect connection.

Background to Incite

4. Mr Horne is a resource management consultant and director of the resource management consulting company Incite (Auckland) Limited.
5. Incite was formed in 1997 and operated nationally across offices in Auckland, Wellington and Christchurch. Subsequently, in 2002, in order to enable the planners in each office to pursue work independently and to avoid potential conflicts, Incite split into three separate entities:
 - (a) Incite (Auckland) Limited;
 - (b) Incite (Wellington) Limited; and
 - (c) Incite (Ch-Ch) Limited.

¹ Mr Horne has prepared statements on Chapter 5 Significant Resource Management Issues for the Region; Chapter 11 Energy, Infrastructure and Transport; Chapter 13 Historical and Cultural Values; Chapter 14 Natural Features and Landscapes.

6. Each office became its own company, with entirely separate shareholding and directorships. Importantly, there are no financial linkages between the three companies – the directors and / or shareholders of one company do not receive any benefit from work being undertaken by a different entity.
7. The extent of the linkages between the three companies is joint branding, a joint website and a high level agreement that the two other entities would be consulted in the event that a shareholder wished to divest.

Relationship with s42A authors

8. The following s42A authors for ORC (insofar as they relate to the Telecommunication Companies' submissions on the PORPS) are employees of Incite (Ch-Ch) Limited:
 - (a) Chapter 1 – Introduction and general themes (Felicity Boyd);
 - (b) Chapter 5 – Significant resource management issues for the region (Jacqui Todd);
 - (c) Chapter 12 – Hazards and risks (Andrew Maclennan);
 - (d) Chapter 13 – Historical and cultural values (Angela Fenemor); and
 - (e) Chapter 14 – Natural features and landscapes (Andrew Maclennan).
9. Mr Horne has submitted evidence in relation to Chapters 5, 13 and 14 (as well as chapter 11).
10. Mr Horne has had no discussions with the s42A authors in relation to their s42A reports and/or supplementary evidence statements, the Telecommunication Companies' submissions or the preparation of his evidence. Mr Horne is confident that he has abided by the New Zealand Planning Institute's Code of Ethics and with the Expert Code of Conduct.
11. Mr Horne and counsel are very happy to answer any questions from the Panel or address this matter further at the PORPS hearings if that would assist.

DATED: 14 December 2022



D J Minhinnick / K M Dibley
Counsel for the Telecommunication Companies