

## Appendix 7: Selwyn District Council and Orion – Joint Witness Statement

Before the Independent Hearings Panel  
at Rolleston

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*under:* the Resource Management Act 1991

*in the matter of:* Joint Witness Statement of Melanie Foote and Andrew  
Mactier

*and:* Notable Trees Chapter Panel Questions

Joint Witness Statement between Melanie Foote (Planning Witness for Orion  
New Zealand Limited and Andrew Mactier (Councils Reporting Officer)

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Dated: 28 October 2021

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## DIRECTION/REQUEST

- 1 Further to the questions issued by Commissioners on the 13 October in respect of the above hearing, Andrew Mactier and myself have met and discussed the questions raised in the Commissioners email. We set out below the response in respect of each question.
- 2 I note we have reached agreement on the response to each question.
- 3 For convenience, the request of the Commissioners is set out in italics below:

*Please see below the panel's questions for Ms Foote regarding the evidence for Orion on Notable Trees. I have cc. Andrew Mactier into the email and Ms Foote can make contact with Andrew to discuss the recommended changes. The panel would appreciate a response to their questions as soon as possible.*

### **Context:**

*The Panel has considered there may be merit in your suggestion in paragraph 17 (i.e. all of the notable trees provisions relating to new and existing network utilities to be placed within the EI Chapter).*

*However, it has some questions regarding the changes you have recommended in Appendix 1, as there may be more complexities regarding the way the PDP rules in the EI and TREE chapters would interplay, and would appreciate your written response please.*

*Please feel free to liaise with Council's reporting officer (Andrew Mactier) as the Panel will ask him to consider and respond to your answers to the questions below. Ideally we would like to see a Joint Witness Statement prepared, depending on the outcome of your discussions with Mr Mactier.*

*These are matters that the felt are technical in nature and are best addressed outside of the formal hearing process on a 'workshopping' basis, i.e. you and Mr Mactier.*

*We would appreciate your responses to these questions at your earliest convenience please.*

### **Question 1:**

*Whilst avoidance of a duplication of rules is an admirable outcome, would you consider it necessary or worthwhile to then have a cross reference in the Notable Trees chapter (i.e. in the pre-amble or at least in Rule TREE 3) to alert readers of the Plan to the rules applicable to network utilities in the EI Chapter (i.e. Rule EI-REQ3)?, and if so can you please suggest some suitable wording for this.*

### **Question 2:**

*In Para 17: You state that "Orion sought an exemption to TREE-R5 to avoid duplication with activities provided for under EI-REQ3: Works to and around Notable Trees. Further clarity around the plan structure has been provided as part of the EI hearing." Your suggested amendments are to TREE-R3 and IE-REQ3, to make IE-REQ3 cover both new and existing network utilities and remove these from TREE-R3 – thereby*

avoiding duplication. However you do not propose any changes to TREE-R5 which relates to work in relation to existing powerlines. Can you please confirm if there is still duplication between TREE-R5 and EI-REQ3 as amended or if this is now resolved.

**Question 3:**

Appendix 1 – proposed deletion of EI-REQ3.2(b): Why would clause 2(b) need to be deleted by Orion when their works will meet EI-REQ3.1(a) and be permitted anyway? Is 2(b) not needed for other activities that don't meet IE-REQ3.1(a) or (b)?

**Question 4:**

Appendix 1 – proposed new clauses EI-REQ3.5(a), 5(b) and 6 - it is noted that you have copied these clauses over from TREE-REQ2.2 for inclusion in proposed IE-REQ3. Amendments have been proposed to TREE-REQ2.2 this by the officer in the S42A report, eg. to remove reference to a hydrovac and the 1m2 area requirement and replace the reference to 5m of the base of the tree. The Panel is interested to know if you would be amenable to the version in the s42A report being replicated here in EI-REQ3 instead? It is noted that you have not copied over TREE-REQ2.1 presumably as the matters listed in clauses a to f are not relevant to Orion. Would you object to clause f (as amended in the s42a report) being copied over so that the installation of new underground network utilities does not alter existing ground levels or the disturbance of land?

**Question 5:**

Do you consider EI-REQ3.2 should also refer to TREE-R5?

**RESPONSE**

**Question 1**

- 4 The EI Chapter 'Notes for Plan Users' was recommended to be amended by Ms Barker to include:

"Except where there are direct cross-references, in all other circumstances this Chapter sets out all other provisions for energy and infrastructure activities".

- 5 On the basis of the inclusion of this clause, we agree that there is no need to provide any cross reference within the Notable Trees Chapter. Other plan users do not need to be alerted to the applicable rules for network utility operators being located in the EI Chapter. Further network utility operators will only look in the EI Chapter for the applicable rules and will only refer to other chapters of the plan where there is a direct cross reference within the EI Chapter.

**Question 2**

- 6 We discussed the intention of this rule and agreed that the intention is for the rule to apply to both network utility operators, and private landowners. Further we agreed that the EI Chapter needs to contain all relevant rules and that a version of TREE-R5 in the Notable Trees chapter needs to be retained. We agreed on the following amended wording to TREE-R5.b to resolve the issue raised:

b. The works are undertaken by, or under the supervision of, a suitably qualified and experienced arborist ~~employed or contracted by the Council or a network utility operator.~~

**Question 3**

- 7 We both agreed that EI-REQ3.2(b) needs to remain for other activities that are not undertaken by network utilities. These other activities for example include emergency services facilities under EI-R32. Further I agree that Orion's activities are permitted under EI-REQ3.1a.

**Question 4**

- 8 Yes I accepted the amended wording in my EiC at paragraph 18. I accept that the amended version be replicated in EI-REQ3. Further I have no objection to clause f (as amended in the s42a report).

**Question 5**

- 9 Yes I agree EI-REQ3.2 should also refer to TREE-R5.

Dated: 28 October 2021




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Melanie Karen Foote

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Resource Management Group Limited




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Andrew Mactier

Senior Strategy and Policy Planner

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