

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER OF

Application by Bio Plant
Manawatū NZ Limited to
discharge contaminants and
odour to air from a pyrolysis
plant at 247 Kawakawa Road,
Feilding. (APP-2020203133.00)

Minute 1 – Hearing Procedures

1. Pursuant to section 34A of the Resource Management Act 1991 (RMA), independent commissioners Mark St.Clair (Chair), Jenny Simpson and Reginald Proffit have been appointed by Manawatū-Whanganui Regional Council (MWRC) to hear and determine the application lodged by Bio Plant Manawatū NZ Limited (the Applicant) for a discharge of contaminants and odour to air from a pyrolysis plant located at 247 Kawakawa Road, Feilding.
2. The hearing is scheduled to commence at **10.00am Tuesday 19 July 2022** at the Manfeild Park Stadium, 59 South Street, Feilding. At this stage the hearing is scheduled for three days, with Friday 22 July 2022 as a reserve day. On **Wednesday 20 July 2022** and **Thursday 21 July 2022**, the hearing will commence at **9.30am**, unless directed by the Panel. MWRC will separately issue a formal hearing notice to the parties. This notice will include details of how the hearing will be conducted relative to the New Zealand Government's requirements as to the applicable Alert Level protocols that will be in place at that time.
3. The Commissioners note that section 103B, requires that a consent authority must provide the section 42A reports to the applicant and submitters who wish to be heard, at least 15 working days prior to the hearing. In addition, section 103B requires the Applicant to provide the consent authority with briefs of evidence 10 working days before the hearing, and for submitters calling expert evidence to similarly provide that evidence 5 working days before the hearing. The Commissioners further note that the consent authority must give written or electronic notice to the parties, that the Applicant's evidence and any submitter expert evidence is available at the consent authority's offices. In relation to his last matter, the Commissioners request that MWRC email the parties with a link to the Council's website of any material filed.

Accordingly:

4. Pursuant to section 103B(2) of the RMA, the Commissioners direct that the MWRC Section 42A report/s be provided to the parties, by way of email with a link to the Council's website, no later than **1pm on Friday 10 June 2022**.
5. Pursuant to section 103B(3) of the RMA, the Commissioners direct that the Applicant is to provide written briefs of all their evidence to Mrs Shelley Gunning (Shelley.Gunning@horizons.govt.nz), Consents Administrator at MWRC, by way of email, no later than **1pm on Friday 24 June 2022**.
6. The Commissioners request that as soon as practicable following receipt of any such evidence received pursuant to Direction [5], MWRC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.
7. Pursuant to section 103B(4) of the RMA, the Commissioners direct that if any person who has made a submission intends to present expert evidence at the hearing, including expert planning evidence, then that party is to provide a written brief of that expert evidence to Mrs Shelley Gunning, Consents Administrator at MWRC, by way of email, no later than **1pm on Friday 8 July 2022**.
8. The Commissioners request that as soon as practicable following receipt of any such evidence received pursuant to Direction [7], MWRC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.
9. In terms of Directions [4], [5], [7] and [11] the reports and evidence should be provided to MWRC electronically by email. Hard copies of the evidence should only be provided on request.
10. Pursuant to s41C(1) of the RMA, the Commissioners direct that in respect of expert evidence pre-circulated in accordance with these Directions, the hearing will be conducted in the following manner:
 - a) The section 42A report(s) will be taken as read;
 - b) The Applicant that has provided the pre-circulated evidence is to call the witness in person;

- c) The witness should be introduced and asked to confirm his or her qualifications and experience;
 - d) The witness should be asked to confirm the matters of fact and opinion contained in the brief of evidence;
 - e) The witness will then be given an opportunity to draw to the attention of the Commissioners the key points in the brief. No new evidence shall be introduced, unless it is specifically in response to matters raised in other pre-circulated briefs of evidence supplied by another party – in such cases the new evidence shall be presented in written form as an Addendum to the primary brief of evidence and it may be verbally presented by the witness. If there is any variation between what the witness says and what is in the brief of evidence, the Commissioners will assume that the written brief is the evidence unless the content of the brief is specifically amended by the witness;
 - f) The witness may then be questioned by the Commissioners.
11. Given the uncertainties around the COVID-19 Alert Levels and the restrictions that may be in place, the Commissioners request that non-expert evidence (including legal submissions) be emailed to Mrs Shelley Gunning, Consents Administrator at MWRC, no later than **1pm on Friday 15 July 2022**, to enable these to be provided to the hearing participants in advance. This non-expert evidence and/or legal submissions may be read aloud on the day that the relevant party appears at the hearing.
12. The Commissioners request that as soon as practicable following receipt of any such evidence or legal submissions received pursuant to Direction [11], MWRC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.
13. The hearing will be conducted in a manner which is appropriate and fair, but without unnecessary formality. Subject to adequate notice, the Commissioners will receive written or spoken evidence in Te Reo Māori. If any party wishes to present evidence in Te Reo Māori, they are requested to advise through Mrs Shelley Gunning, Consents Administrator at MWRC, no later than **1pm on Friday 27 May 2022**.
14. The Commissioners also requests that all parties (the MWRC reporting officer/s, Bio Plant Manawatū NZ Ltd as the applicant and any submitters) calling expert witnesses liaise amongst themselves in order to facilitate their respective experts conferencing on matters relevant to their specific areas of expertise prior to the preparation of their reports or evidence (including any applicable conditions of consent) and through to the commencement of the hearing. The aim of the conferencing should be to identify areas of agreement and disagreement which can then be noted in the reports and evidence. The Commissioner will attempt to focus on the issues of contention during the hearing and in deliberations thereafter and so the assistance of the parties to clearly identify areas of expert agreement and disagreement in this manner will be greatly appreciated.
15. Any correspondence to the Commissioners should be directed through Mrs Shelley Gunning, Consents Administrator at MWRC at Shelley.Gunning@horizons.govt.nz



Mark St.Clair
Chair

2 May 2022