

**Directions/Minute of the Commissioner #1
LUC17/47070.1**

Application to vary conditions of consent for Stock Feed Depot at 93 Manutahi Road, Bell Block, New Plymouth.

Pursuant to section 34A of the Resource Management Act 1991 (RMA), independent commissioner Mark St.Clair has been appointed by New Plymouth District Council (NPDC) to hear and determine the application lodged by Winton Stock Feed Limited (the Applicant) to vary the conditions of resource consent LUC17/47070, to establish and operate a stock feed storage and distribution operation at Lot 1 DP 344340 – 93 Manutahi Road, Bell Block, New Plymouth.

The hearing is scheduled to commence at **10.00am Thursday 27 May 2021** at the New Plymouth District Council offices (NPDC), in the Plymouth Room, Ground Floor, 84 Liardet Street, New Plymouth. At this stage the hearing is scheduled for one day. NPDC will separately issue a formal hearing notice to the parties.

The Commissioner notes 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 Commissioner further notes 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, I request that NPDC email the parties with a link to the Council's website of any material filed.

Accordingly:

1. Pursuant to section 103B(2) of the RMA, the Commissioner directs that the NPDC section 42A report be provided to the parties, by way of email with a link to the Council's website, no later than **3pm on Wednesday 5 May 2021**.
2. Pursuant to section 103B(3) of the RMA, the Commissioner directs that the Applicant is to provide written briefs of all their evidence to Julie Straka (julie.straka@npdc.govt.nz), Hearings' Administrator at NPDC, by way of email, no later than **3pm on Wednesday 12 May 2021**.
3. The Commissioner requests that as soon as practicable following receipt of any such evidence received pursuant to Direction 2, NPDC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.
4. Pursuant to section 103B(4) of the RMA, the Commissioner directs 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 Julie Straka, Hearings' Administrator at NPDC, by way of email, no later than **3pm on Wednesday 19 May 2021**.
5. The Commissioner requests that as soon as practicable following receipt of any such evidence received pursuant to Direction 4, NPDC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.
6. In terms of Directions 1, 2 and 4 the reports and evidence should be provided to NPDC electronically by email. Hard copies of the evidence should only be provided on request.
7. Pursuant to s41C(1) of the RMA, the Commissioner directs that in respect of expert evidence pre-circulated in accordance with these Directions, the hearing will be conducted in the following manner:
 - The section 42A report(s) will be taken as read;

- The applicant that has provided the pre-circulated evidence is to call the witness in person;
 - The witness should be introduced and asked to confirm his or her qualifications and experience;
 - The witness should be asked to confirm the matters of fact and opinion contained in the brief of evidence;
 - The witness will then be given an opportunity to draw to the attention of the Commissioner 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 Commissioner will assume that the written brief is the evidence unless the content of the brief is specifically amended by the witness;
 - The witness may then be questioned by the Commissioner.
8. Non-expert evidence (including legal submissions) should be tabled and read aloud on the day that the relevant party appears at the hearing.
9. The hearing will be conducted in a manner which is appropriate and fair, but without unnecessary formality. Subject to adequate notice, the Commissioner 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 Julie Straka, Hearings' Administrator at NPDC, no later than **3pm on Monday 10 May 2021**.
10. The Commissioner also requests that all parties (the NPDC reporting officer, Winton Stock Feed Limited as the applicant, and any of the 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 (Environment Court Practice Note 2014, Appendix 3). 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.
11. Any correspondence to the Commissioner should be directed through Julie Straka Hearings' Administrator at NPDC. julie.straka@npdc.govt.nz



Mark St.Clair
Independent Commissioner - Chair

Date 4 May 2021