

**Bay of Plenty Regional Council
DIRECTIONS OF THE COMMISSIONERS
RM20-0462 Zivi Limited**

Introduction

- [1] Pursuant to section 34A(1) of the Resource Management Act 1991 (RMA), the Bay of Plenty Regional Council (BOPRC) has delegated to Independent Commissioners Rauru Kirikiri, John Iseli and Rob van Voorthuysen the function of hearing submissions and deciding an application made by Zivi Limited (Zivi) for the discharge of contaminants to air from an existing pet food manufacturing facility in Mount Maunganui.

Request for Deferral of Hearing

- [2] Zivi have confirmed that they will be relocating their pet food operation to the Hawke's Bay region around September - November 2022.
- [3] The Hearing of the Zivi application for the Mount Maunganui site is currently set down for 2 and 3 December 2021.
- [4] By way of a letter from counsel Helen Atkins dated 22 September 2021, Zivi have sought a deferral of the Hearing until a date in the end of the first quarter of 2022. We understand Zivi's preferred date to be sometime in March 2022. The reasons for requesting a deferral include:
- a scrubber has now been installed on site, which took some time to achieve due to Covid-19 lockdowns and related restrictions, but further testing and ground-truthing is required to reliably confirm the effectiveness of the scrubber and ensure its odour removal performance is optimised;
 - Zivi's technical odour expert, Roger Cudmore, has had to reduce his work hours for health reasons and he is currently not able to travel to undertake any physical site visits; and
 - the Covid-19 alert level restrictions in August and September this year have caused significant delay and difficulty in undertaking the ground-truthing work required for Zivi to be Hearing ready and for its experts to present sound evidence.
- [5] Should a deferral be granted then Zivi has offered to:
- formally amend its resource consent application so that the term of consent sought is no more than one calendar year from the date of granting or whenever Zivi vacate the site, whichever is the earlier;
 - continue to comply with its Odour Management Plan to ensure ongoing mitigation of its odour discharges; and
 - continue to work towards completing the appropriate scrubber performance testing and downwind ambient assessments as required under the Odour Management Plan.
- [6] We are aware from BOPRC staff that there is a strong desire from Submitters to expedite a resolution of the Zivi operation and the odour emanating from it by way of a Hearing. We are also aware that BOPRC's compliance staff desire to have enforceable consent conditions at their disposal.
- [7] However, we acknowledge the submission from counsel for Zivi that to go to a Hearing without having the full set of information on the efficacy of the scrubber would be prejudicial to Zivi.

Decision

- [8] Having weighed the interests of the parties we have decided that Zivi's application for a deferral should be granted and the Hearing should be set down for mid-February 2022. We consider that will allow sufficient time for gathering of information and preparation of expert evidence. That decision is conditional on Zivi amending their application to seek a consent duration expiring no later than 30 November 2022 or whenever Zivi vacate the Mount Maunganui site, whichever is the earlier.
- [9] We request that:
- i) Zivi apply to vary their application as set out in paragraph [8] above as soon as possible, but no later than 8 October 2021, and
 - ii) Provided that i) above is complied with, a new Hearing date is set down by BOPRC in liaison with Zivi for the week commencing 14 February 2022.



Rob van Voorthuysen
For the Commissioners
28 September 2021