

**ENVIRONMENT SOUTHLAND**  
**HEARING OF RESOURCE CONSENT APPLICATION BY PIONEER ENERGY LIMITED**

**MINUTE #1 OF THE HEARING COMMISSIONER**

**Introduction**

1. I have been appointed by Environment Southland (**ES**) as an Independent Commissioner to hear and decide the application lodged by Pioneer Energy Limited (**the Applicant**) to change conditions of resource consent AUTH-201088 associated with the operation of a hydroelectricity power scheme. The application is referenced as APP-201088-V1.
2. The function of this Minute is to set out some preliminary matters in preparation for the hearing which is set down to commence at 9 am on Thursday 26 September 2019 at ES's Council Chambers, Invercargill. In particular, the objective of this Minute is to provide directions for a smooth and easily navigable hearing process for all parties. This requires action from some of the parties in the next few weeks in readiness for the formal proceedings.
3. This Minute covers the following matters:
  - (a) Evidence preparation and circulation;
  - (b) Hearing process and presentations;
  - (c) Hearing schedule/timetable; and
  - (d) Site and locality visit.
4. I may issue further instructions by way of a Minute(s) before the hearing. All correspondence between the parties and myself will be facilitated by Ms Lacey Bragg at ES. Her contact details are provided at the end of this Minute.

**Evidence Preparation and Circulation**

5. In accordance with the requirements of section 103B of the Resource Management Act 1991 (**RMA**), the circulation of the following is required prior to the commencement of the hearing:
  - The report prepared by the reporting officer under section 42A of the RMA;
  - All expert and non-expert evidence of the Applicant; and
  - All expert evidence of submitters wishing to be heard at the hearing.
6. I understand ES has advised the parties of the dates by which this evidence must be provided to ES.
7. **Submitters**: please note that it is only those submitters who are intending to call 'expert' evidence who need to submit those briefs. Expert witnesses are experts by virtue of their qualifications, experience, and independence.
8. While not strictly required for council hearings, I expect *all* expert witnesses to comply with the Section 7 (Expert Witnesses) of the Environment Court's Practice Note 2014 in preparing their evidence and/or giving any oral evidence. I ask the parties to remind their experts that those witnesses have an overriding duty to assist me impartially on relevant matters within their area of expertise and they must not be an advocate for the party who engages them. The latest version of the Environment Court's Practice Note can be found at <https://www.environmentcourt.govt.nz/about/practice-note/>.
9. For completeness, any legal submissions (from the Applicant or any submitter) are to be presented during the hearing and there is no need for these to be pre-circulated.

10. I understand that ES will collate all the pre-circulated evidence and make it available to the parties. Further instructions about accessing this information (including where hard copies of the evidence may be viewed) will be conveyed by ES following receipt of all materials.

### Hearing Process/Presentations

11. The pre-circulated evidence is being distributed to all parties prior to the hearing and, as such, will be read by me prior to the hearing commencing – that is, it is ‘taken as read’. This means it will not be necessary for a verbatim oral presentation of the written statements of evidence at the hearing. I direct that each witness presenting expert evidence:
- be introduced and asked to confirm their qualifications and areas of expertise;
  - confirm the matters of fact and opinion contained in the statements of evidence;
  - identify any corrections to be made; and
  - provide a summary of their evidence to draw attention to the key points in their statement of evidence (in particular the reasons for disagreement with any other experts in their field of expertise) - I request this be limited to no more than two A4 pages.
12. The Applicant’s witnesses may also provide written rebuttal evidence on other expert statements of evidence provided by another party. I remind witnesses that no new evidence may be introduced, unless it is specifically in response to matters raised in other pre-circulated statements of evidence provided by another party.
13. Non-expert evidence from submitters, including lay evidence or legal submissions, does not need to be pre-circulated and shall, instead, be tabled at the hearing and read aloud on the day of the hearing. I remind the parties that I will have also read all the written submissions that were lodged on the Application and therefore discourage submitters from reading their written submissions verbatim. Again, I am happy for submitters presenting to speak to a summary of their submission by either:
- a separate tabled statement that condenses the key points from evidence (i.e. a couple of A4 pages); or
  - highlighting particular points within their evidence during their presentation.
14. With the above approach in place, I envisage presentations for all persons (expert and non-expert), except legal presentations, will be in the order of 15 minutes per speaker, though this is not a fixed time requirement. My intent in signalling this is less a stipulation that speakers rigidly adhere to an imposed time limit, and more a *guide* for those wondering how long their presentation is likely to last. Further time may be required to answer any questions I may have.
15. I want to be clear that all parties (Applicant, submitters, and the reporting officer) will be given the time they require to adequately present their views. The main reason the RMA directs pre-circulation of evidence is to minimise the time required for all parties to be present at the hearing itself. This expedited process will not, however, be at the expense of any party’s ability to fully participate in the process.

### Hearing Schedule/Timetable

16. The hearing has been set down for two days but at this stage no detailed Hearing Schedule is available. The normal sequence of presentations will be the Applicant presents its case, the submitters then present their case/submission, and then the reporting officer will have an opportunity to respond to matters raised in evidence or during the hearing. Finally, the Applicant will be given the opportunity to deliver its Right of Reply. This may either be orally or in writing and I will discuss this on the second day of the hearing. In the event the Applicant presents its Reply orally, then I request a written copy also be provided.

17. In terms of the submitters, Ms Bragg will contact those who indicated they wish to speak at the hearing (i.e. wished to be heard) to:
- I. Confirm that the party still intends to attend the hearing and to speak to their submission;
  - II. Ask whether the party has any time restrictions or preferred day(s) to present their submission; and
  - III. Get an indication of the time required/requested to present their case (bearing in mind the guideline times discussed earlier in this Minute).

18. A Hearing Schedule will be prepared based on the responses Ms Bragg receives and this will be circulated to the parties before the hearing commences.

#### **Site and Locality Visit**

19. I will be undertaking a general site and locality visit following the hearing.

20. If any party has a desire for me to visit particular sites/localities associated with the application, they should advise Ms Bragg as soon as practicable.

#### **ORC Contact Details**

21. If any party wishes to seek further clarification in relation to this Minute or the hearing process please contact Ms Bragg in the first instance, email: [lacey.bragg@es.govt.nz](mailto:lacey.bragg@es.govt.nz) or phone 0800 76 88 45.

**DATED** 6 September 2019



Dr Rob Lieffering  
Independent Commissioner