



Notice of Hearing

APP203660 - Methyl bromide

Note: These arrangements are provisional, based on the intentions of the parties to appear as advised to the EPA, and hence are subject to amendment if those intentions change, and are subject to the directions of the Chair.

Application code:	APP203660
Application category:	Hazardous Substances, Notified, Reassessment,
Applicant:	Stakeholders in Methyl Bromide Reduction Inc.
Applicant contact:	Ian Gear
Purpose:	To reassess methyl bromide
Date application received:	9 April 2019
Hearing dates:	<ul style="list-style-type: none">• 3rd and 4th December 2019 – Auckland• 9th and 10th December 2019 – Wellington• 12th December 2019 – Tauranga
Time:	
Venue:	<ul style="list-style-type: none">• Auckland - Rydges Auckland – 59 Federal Street, Corner Kingston Street• Wellington – James Cook hotel Grand Chancellor – 147 The Terrace• Tauranga – Hotel Armitage and Conference Centre – 9 Willow Street
Contact for Hearing:	Marree Quinn, Applications Administrator, Hazardous Substances, Environmental Protection Authority, Wellington DDI: 04 474 5472

Decision-making Committee

Tipene Wilson (Chair)

Dr Ngaire Phillips

Dr Derek Belton

Sequence of Events

1. Introduction and explanation from the Chair
2. Order of business and procedures
 - Applicant presents application
 - EPA staff to present the Staff Report
 - Submitters present submissions and any witnesses
 - Final questions from the Committee
 - Adjournment of hearing

The above is a guide only and the conduct of the hearing will be at the Chair's discretion and in accordance with the guidelines provided.

HEARING PROCEDURES:

Timeline

3. Will be updated by close of business Friday 15 November 2019.

Communication with DMC (to and from)

4. Any public communication from the DMC will generally take the form of a Minute. Minutes may include:
 - A **Direction** – a general directive of the DMC advising or requiring a response from one or more parties;
 - A **Decision** – a finding on a particular issue (for example on a pre-hearing dispute); and
 - An **Advisory Notice** – information applying to one or more of the parties.
5. Communications from the DMC will be issued by the EPA (on the DMC's behalf) by email unless the EPA has been advised that another form of communication is required.

The documents will also be posted on the EPA website. The EPA will only notify submitters of documents being posted on the website where there is a legal requirement to do so, or the DMC directs it to do so. The responsibility is on the parties to check the EPA website for new information.

All Evidence

6. Applicants, submitters and their witnesses are expected to pre-circulate to the Authority and to all other parties attending the hearing, copies of any information they intend to present to the hearing, at least 10 working days prior to the hearing. Parties should work on the basis that members of the DMC will have read the application, submissions and other circulated information prior to the hearing. It is therefore not necessary to read this information verbatim at the hearing. Parties should instead use their allotted time at the hearing to highlight their key points and be prepared to answer any questions which the DMC may have.
7. If information is presented at a hearing that has not been disclosed to the EPA or to the other parties, the Chair may adjourn the hearing to allow other parties, including staff of the EPA, to assess and respond to the new information.
8. Witnesses should state in their evidence if they consider themselves to be expert witnesses and provide a statement about their qualifications and expertise to support this. An expert witness has an overriding duty to impartially assist the DMC on matters within the expert's area of expertise, and not advocate for a position regardless of who has hired them.
9. Information will be provided to parties by being made available on the EPA website, from where it can be downloaded. If any party is unable to download copies of the evidence, they can request

the EPA to provide the evidence in soft copy or in hard copy. The EPA may charge for hard copy material.

Applicant's evidence

10. The applicant's evidence will be presented on the first day of the hearing only.
11. The applicant will have the opportunity to provide right of reply evidence at the end of the last day of the hearing.
12. If an applicant is having a witness appear for them, the applicant is required to provide their written statements of evidence to the EPA 10 working days prior to the hearing date.

Submitter evidence

13. If a submitter is having a witness appear for them, the submitter is required to provide their written statements of evidence to the EPA 10 working days prior to the hearing date.
14. Submitters may refer to published material authored by others as part of their evidence. Sources of such material should be clearly identified. Submitters presenting such information are expected to be able to justify their use of such information and to be questioned on their analysis and conclusions relating to such information.

Expert Conferencing

15. Should the DMC decide that expert conferencing is required, they will issue a Direction to that extent.
16. In such case, the DMC expects that Expert Conferencing will take place in accordance with the District Court Rules 2014.
17. The DMC expects that expert witnesses will be available to conference with other experts in the same technical field.
18. Only requested witnesses are to attend expert conferencing. Parties are not permitted to attend or observe. A joint witness statement will be produced from Expert Conferencing that will outline the areas of agreement, disagreement and any shared assumptions/facts.

Pre-hearing Meetings

19. The DMC may request the applicant and one or more submitters meet to discuss any matters in dispute before the hearing.
20. Parties are free, and are encouraged to, hold such meetings amongst themselves, or with the applicant.

Expert Conferencing and Pre-hearing Meetings

21. The final topics, attendees, dates and times of any Expert Conferencing and Pre-hearing Meetings will be determined and advised by the DMC. Attendees will be expected to make

themselves available for these dates (either in person or video/telephone conferencing). Further dates and times may be directed by the DMC or in agreement by the attendees.

22. Should any party seek changes to any scheduled Expert Conferencing or Pre-hearing Meetings, a request should be made to the DMC within two (2) working days of the dates and times being advised. Attendance requirements and/or other changes will be confirmed by the DMC.
23. The DMC may appoint a facilitator to organise and conduct Expert Conferencing and/or Pre-hearing Meetings if required.
24. For all Expert Conferencing and Pre-hearing Meetings a report is to be provided on the outcome of the meeting, including:
 - the matters that were agreed at the meeting; and
 - the matters that were not resolved and why.
25. The report will not include anything communicated or made available during the conferencing or at the meeting on a 'without prejudice' basis.

Questions for Submitters

26. For the purposes of making a decision on the application, the DMC may ask any question of the applicant, any submitter, representative, legal counsel, or witness. Questions will generally be after, but may be at any point in the presentation by that person.
27. There will be limitations on questioning of submitters by the applicant or by other submitters. Questions must be questions of clarification and must be asked through the Chair of the hearing. The applicant has the opportunity to follow submitters with its response to issues raised. Other than this, responses, which are not genuine questions of clarification, will not be permitted.
28. There will be no cross-examination of parties or their witnesses at the hearing. At the conclusion of each person's evidence, the members of the DMC may ask questions of that person. The Chair will then invite any other party to put questions of clarification or explanation to the witness. Such questions may be put only with the leave of the Chair who has the discretion to disallow any question.

Sequence at hearing

29. The DMC will pre-read the application, submissions, the evidence, and any other material provided in accordance with the timetable.
30. The hearing will be a public hearing where the applicant and submitters (and their respective witnesses) who have advised that they wish to present at the hearing can speak.
31. The hearing will proceed on the basis that all parties have read the material of relevance to them.
32. All parties are required to behave in a manner that assists the DMC in their decision-making process, and seeks to make efficient use of the hearing time available.

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33. At the request of the DMC, presentations from the applicant, EPA staff, and submitters on similar topics may be scheduled to be heard on the same day/s, so as to provide the DMC with the best practicable opportunity to understand the issues related to that topic.

Opening the hearing

34. The hearing may open with a mihi whakatau and opening statement from the Chairperson.

Opening representations

35. Opening representations will be made after the hearing has been opened and any process, administrative and/or jurisdictional matters have been addressed.
36. The DMC may ask questions associated with any opening representation.

Opening representations from the applicant

37. Opening representations by the applicant are expected to provide a succinct overview of their application, identification of the relevant issues and the applicant's position on these, the legal context, an outline of the evidence to be presented and the likely length of time to present the case.
38. Hard copies of representations and any documents supporting these can be provided at the hearing.

Witnesses appearing at the hearing (providing evidence)

39. Submitters wanting to call witnesses at the hearing must indicate who those witnesses are and the topics they will cover at least 10 days prior to the hearing.
40. All witnesses **must** attend the hearing in person (or, by prior agreement of the DMC, through video conferencing), unless the DMC decides that a particular witness does not need to appear.
41. Witnesses will not read their evidence at the Hearing unless requested to do so by the DMC.
Witnesses may:
- present a concise summary of their evidence; this summary should cross reference back to the evidence;
 - explain relevant figures, plans and tables; and
 - summarise any changes to their evidence as a result of facilitation or conferencing.
42. The DMC may direct that a witness need not appear at the hearing. This may occur where the witness's evidence is not contested by any other party, but may also, at the discretion of the DMC, be for any other reason.
43. A limit may be placed on the time witnesses have to present their evidence. Any such time limits will be determined and directed by the DMC.

Submitters appearing at the hearing (making their representation)

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44. All submissions will be read and considered by the DMC. Submitters do not have to attend the hearing if they do not wish to, their views will be considered by the DMC regardless of their attendance.
 45. Submitters wanting to speak to their submission at the hearing must reconfirm their wish to do so by the date specified by the EPA. The EPA will then prepare a hearing schedule accordingly.
 46. Submitters can speak to their submission themselves, or they can choose to be represented by a lawyer, an advocate or other person (e.g. a friend or family member). If not representing themselves the submitter must advise the EPA who will present their submission.
 47. When speaking at the hearing, a submitter can address the matters raised in their submission but must not introduce new topics. Evidence will be taken as read, unless the DMC direct otherwise.
 48. A limit of 15 minutes will be placed on the time submitters have to make their representation.

Health and safety

49. Parties are responsible for ensuring their own health and safety at the hearing.
50. EPA staff will take all reasonable steps to ensure the safety of all parties attending the hearing. If you have concerns about your safety at the hearing, please raise it with EPA staff.
51. Hazards or potential hazards should be raised with EPA staff as soon as practicable.
52. In the event of an emergency during the hearing, parties are to adopt the emergency procedures specific to the venue and follow the instructions of EPA or venue staff should evacuation be required.

Media

53. The hearing will be in public (except to the extent that any protection of sensitive information applies). Representatives of the media are free to attend and report the proceedings.
54. Cameras, video-recorders and audio recorders can only be used by media or any other person in the hearing with prior permission from the DMC. Applications for recording can be made to the DMC in advance by writing to the EPA.
55. Media interviews are not allowed in the hearing room. The DMC are not available for media interviews. The EPA will be available to provide process information to the media. All media enquiries should be directed to Senior Communications Advisor Sean O'Brien – to be contacted via media@epa.govt.nz.

Transcript

56. The DMC will have the hearing proceedings recorded and transcribed. The transcripts will be made available on the EPA website.
57. The hearing cannot be recorded for personal or public purposes without prior approval from the DMC. This includes photographs, videos or sound recordings.
58. Specifically there is to be no recording whatsoever by electronic devices without prior approval of the DMC. This includes, but is not limited to; cameras, dictaphones, digital voice recorders, video recorders, mobile phones or tablet computers.

Final decision

59. At the end of all the presentations the DMC will adjourn the hearing and will make its decision in private. A final decision will be made usually within 30 working days from the close of the hearing but may be longer if further information is sought by the DMC. You will be notified of the decision and it will also be available on the EPA website at www.epa.govt.nz.

Appealing the decision

60. Parties considering an appeal on the decision should contact their solicitor, the New Zealand High Court or visit www.justice.govt.nz for details. It is recommended that any parties considering appealing take legal advice. A fee is required for filing an appeal.

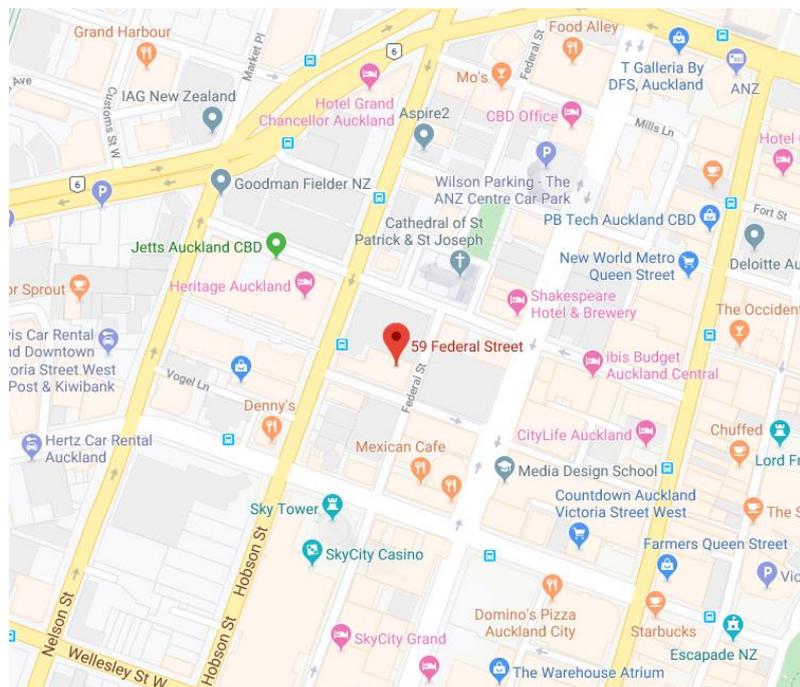
Hearing Venues

Auckland:

Rydges Auckland

59 Federal Street, Cnr Kingston Street

Auckland 1010

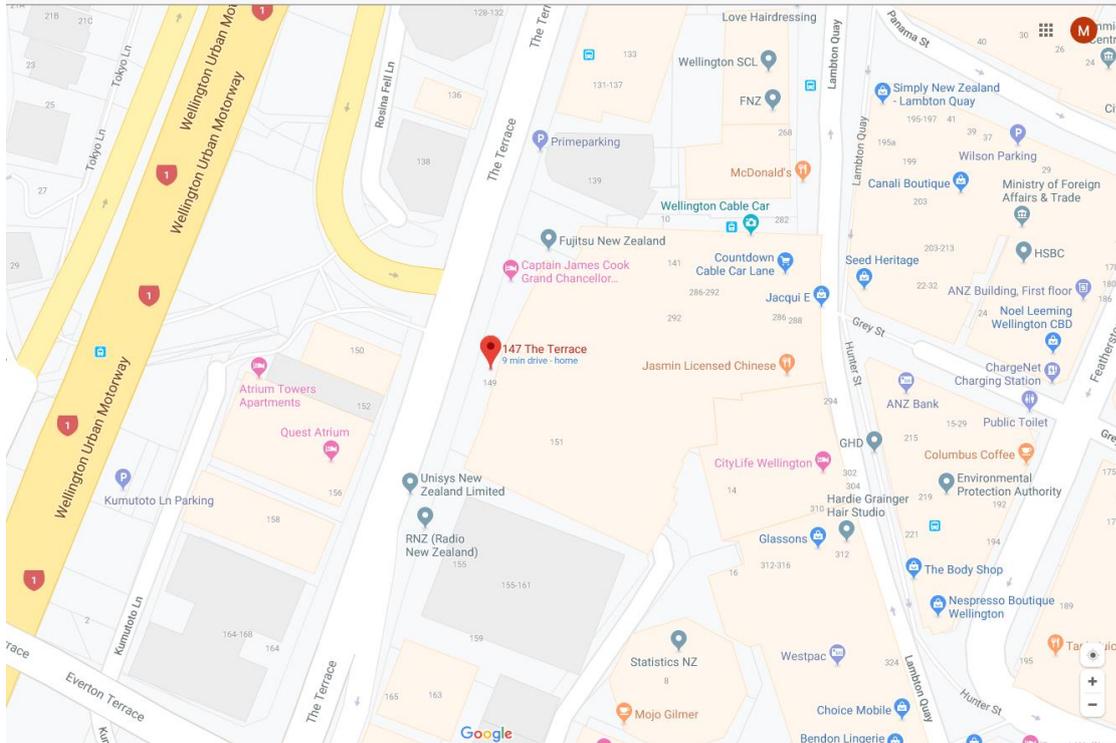


Wellington:

James Cook Hotel Grand Chancellor

147 The Terrace

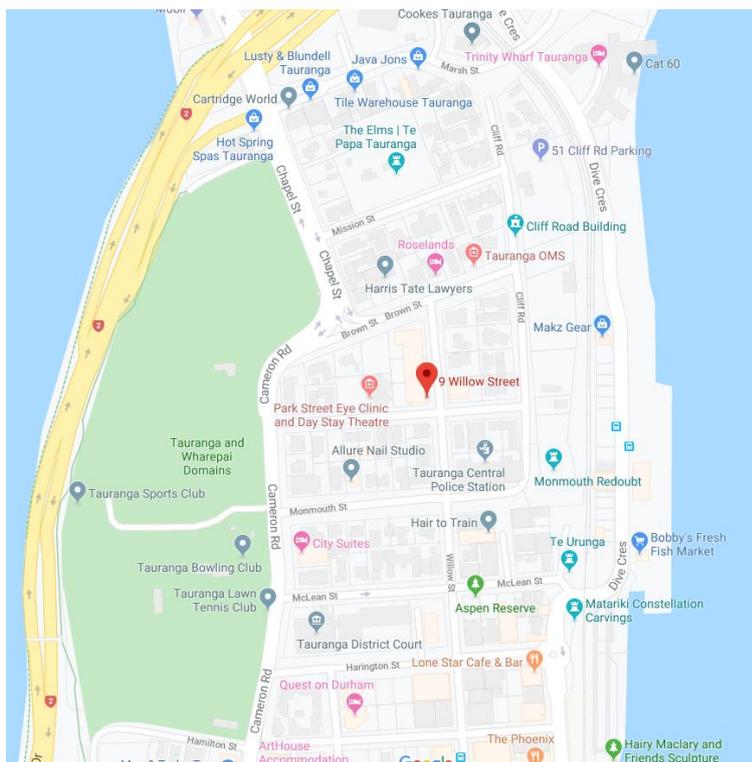
Wellington 6011

**Tauranga:**

Hotel Armitage and Conference Centre

9 Willow Street

Tauranga 3110



Housekeeping Details

- **Parties are responsible for their own food arrangements**
- Cell phones should be turned off
- No food will be permitted in the hearing room
- No filming or photos of proceedings to be taken
- Please refer to the map for directions to the venue.