

**Before a Decision-Making Committee  
Of the Environmental Protection Authority**

**APP202804**

**Under** the Hazardous Substances and New  
Organisms Act 1996

**In the matter of** an application to import EDN  
(ethanedinitrile)

**By** **Draslovka**  
Applicant

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**MEMORANDUM OF COUNSEL FOR STIMBR  
6 DECEMBER 2021**

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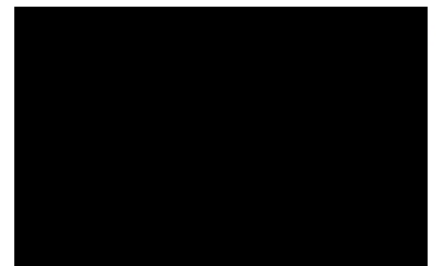
**Counsel Acting**  
M J Slyfield

[REDACTED]

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1. By Direction & Minute WGT016 dated 2 December 2021 the DMC directed counsel for STIMBR "to provide the DMC with a written copy of the legal submissions which were read out at the hearing [on 25 November 2021]."
2. Those parts of the submissions that were read out at the hearing are in the **attached** notes. Other parts of the submissions were simply verbalised, without any pre-prepared notes. The transcript itself provides a complete written record of what was said.<sup>1</sup>
3. WGT016 states that counsel's submissions "raised legal issues which have not yet been raised or addressed by parties", and "were not provided prior to the hearing as required".
4. To be clear, prior to the hearing STIMBR explicitly requested that fumigation in ship holds be included in the EDN approval.<sup>2</sup> STIMBR did not provide submissions on jurisdiction prior to the hearing, as it had no notice that the DMC considered jurisdiction to be an issue. The DMC had not disclosed the existence or content of the advice it apparently received on 18 November 2021.



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<sup>1</sup> From page 100, line 44 to page 108, line 1.

<sup>2</sup> See, for example, STIMBR's response to further information dated May 2020, and STIMBR's response to the updated Staff Report and Science Memo, dated 21 September 2021, penultimate paragraph.