

Notice of Hearing

APP202804 – EDN (Ethanedinitrile)

Please 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:	APP202804
Application category:	Hazardous Substances, Notified, Category C application
Applicant:	Lucebni Zavody Draslovka a.s. Kolin
Applicants contact:	Helen Gear
Purpose:	To import EDN, a fumigant for use on timber/logs under commercial conditions
Date application received:	17 July 2017
Reconvened Hearing date:	25 November 2021
Time:	9.00am – 4.00pm approx.
Venue:	Virtual meeting – on Zoom https://us02web.zoom.us/j/81665720635?pwd=Q0duZGZkZHZGaGdYQkZCd1AxVEUrdz09 Passcode: 570157 (public only) Participants will be sent separate Zoom login details.
Contact for Hearing:	Marree Quinn, Administrator, Hazardous Substances, Environmental Protection Authority DDI: 04 474 5472

Decision-making Committee

Dr John Taylor (Chair)

Dr Kerry Laing

Dr Ngaire Phillips

Scope of the reconvened hearing

This reconvened hearing is confined to information before the DMC that has been substantially updated or revised since the adjournment of the first part of the hearing in 2018. This information includes changes to any technical parameters under which EDN may be used, the updated EPA Staff Report 2021 and updated Science Memorandum 2021, as well as other relevant documentation provided to the DMC after 29 August 2018 up to 1 November 2021, which are available on the EDN public consultation pages of the EPA website.

Sequence of Events

The following sequence of events is a guide only and the hearing will be conducted at the Chair's discretion and in accordance with guidelines below, unless modifications are considered appropriate.

1. Mihi by EPA representative
2. Introduction and explanation from the Chair
3. Order of business (details below) and procedures
 - WorkSafe
 - EPA staff
 - Applicant
 - Submitters
 - Final questions from the Committee
 - Adjournment of hearing

HEARING PROCEDURES

Order of Business

Please note that these are approximate session times and are dependent on the length of questioning by the Committee and the appearance of submitters at the hearing and parties presenting at the reconvened hearing may be called by the Committee to present earlier or later than the time specified below.

APP202804 Hearing Schedule - Thursday 25 November 2021		
9.00am – 9.05am	Mihi	Julian Jackson, EPA representative
9.05am – 9.15am	Introduction and explanation Record of appearances	Dr John Taylor, Chair, Decision-making Committee
9.15am – 10.15am	Applicant presentation	Mr. Kade McConville, Group Director - Draslovka Services; and Dr. Swaminathan, Head of Research & Regulatory Affairs - Draslovka Services

		<p>Support team: Mr. Adam Trocha, Head of Operations & Application Development - Draslovka Services; and Ms. Helen Gear, New Zealand Registration Coordinator, Laurus Consulting (Draslovka Services)</p> <p>Expert support team: Dr Mark Pemberton – Regulatory toxicologist David Sullivan – Air dispersion modeller Mark Holdsworth – Air dispersion modeller Dr Jack Armstrong – Retired ARS scientist and consultant</p> <p>(1 hour)</p>
10.15am – 11.00am	WorkSafe presentation	<p>Susan Collier, Technical Specialist Occupational Health; and Paul Moenboyd, Senior Advisor Regulatory Frameworks</p> <p>(45 mins)</p>
11.00am short break (15 mins)		
11.15am – 12.00pm	EPA Staff presentation	<p>Michael Berardozzi, Principal Advisor Hazardous Substances; and Caroline Anderson, Advisor Hazardous Substances</p> <p>(45 mins)</p>
Presentations by Submitters		
12.00pm – 12.20pm	Plenty Regional Council (BOPRC)	<p>Sam Weiss, Senior Regulatory Project Officer, Bay of Plenty Regional Council (BOPRC) and Jennifer Barclay ASG (Witness)</p> <p>(20 mins)</p>
12.20pm – 12.40pm	NZ Forest Owners Association	<p>Glen Mackie, Technical Manager, NZ Forest Owners Association</p> <p>(20 mins)</p>
Lunch break, 12.40pm – 1.30pm (50 mins)		
1.30pm – 1.50pm	Rayonier Matariki Forests	<p>Chris Rayes, Marketing Director, Rayonier Matariki Forests</p> <p>(20 mins)</p>
1.50pm – 2.10pm	Port Blakely Ltd	<p>Philip Taylor, Managing Director, Port Blakely Ltd</p> <p>(20 mins)</p>
2.10pm – 2.30pm	Stakeholders in Methyl Bromide Reduction (STIMBR) Inc.	<p>Morgan Slyfield, Barrister and Lead presenter; and Don Hammond, Chairperson STIMBR; and Ian Gear, Research Director STIMBR</p> <p>Stakeholders in Methyl Bromide Reduction (STIMBR) Inc.</p>

		(20 mins)
2.30pm – 2.50pm	TPT Forests Limited	Mark Procter, Director, TPT Forests Limited (20 mins)
2.50pm – 3.10pm	Ministry for Primary Industries (MPI)	Shane Olsen, Manager, Plant Exports; and Ken Glassey, Senior Adviser, Treatments; Ministry for Primary Industries (MPI) (20 mins)
3.10pm Short break (15 mins)		
3.25pm – 3.40pm	Applicant's response to matters raised (if necessary)	Mr. Kade McConville, Group Director - Draslovka Services; and Dr. Swaminathan, Head of Research & Regulatory Affairs - Draslovka Services (15 mins)
3.40pm – 3.55pm	Final questions	Decision-making Committee (15 mins)
3.55pm – 4.00pm	Closing Karakia	Julian Jackson, EPA representative
4.00pm approx.	Hearing adjourned	

Please note the DMC fully expects the schedule for the reconvened hearing to conclude on Thursday, 25 November 2021 (noting that the reconvened hearing will be adjourned at the end of the hearing). However, the reconvened hearing could potentially continue on Friday, 26 November 2021 in the event that the DMC considers it necessary.

Communication with DMC (to and from)

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.

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 and where appropriate will be circulated to the applicant and submitters by email link to the website.

Participation in the reconvened hearing

The reconvened hearing is an opportunity for the DMC to be fully informed on aspects of the application that are within the hearing's scope (as detailed above).

Parties should work on the basis that members of the DMC will have read relevant material including the application, previous submissions (where relevant), the recently updated EPA documentation and responses to Direction and Minute 12 from Bay of Plenty Regional Council (BOPRC), New Zealand

Forest Owners Association, Ministry for Primary Industries (MPI), and Stakeholders for Methyl Bromide Reduction Inc. (STIMBR) prior to the reconvened hearing.

It is therefore not necessary for parties to read any of this information verbatim at the hearing. Parties should instead use their allotted time at the hearing to address their talking points and highlight any key points and also be prepared to answer any questions which the DMC may have. If parties wish to make a power-point presentation (or similar) at the hearing, this will need to be sent to the EPA no later than 5pm on Friday, 19 November 2021 and will be circulated to all parties.

The applicant will have 1 hour to make their presentation to the reconvened hearing. This time includes provision for questions of clarification by the Committee and other parties.

Unless otherwise directed, parties participating in the hearing will have 20 minutes (including any witness statement) to make their presentation to the hearing and reply to any questions of clarification by Committee or by other parties.

Questions for Applicant and Submitters

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.

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.

There will be limitations on questioning of submitters by the applicant or by other submitters.

Questions must be questions of clarification.

At the end of the hearing the applicant has the opportunity to respond to issues raised during the hearing in the time allocated for their right of reply.

Other than this, responses, which are not genuine questions of clarification, will not be permitted.

Witnesses appearing at the hearing (providing evidence)

Any witnesses should be able to bring expertise or special knowledge to bear on the matters within the scope of the reconvened hearing. Submitters wanting to call witnesses at the hearing must indicate what topics they will cover at the reconvened hearing by Friday, 12 November.

Witnesses may refer to material (available on the EPA website) authored by others as part of their evidence. Sources of such material should be clearly identified. Witnesses 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.

Witnesses should state 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 they are appearing on behalf of.

Any presentation by a witness will need to occur within the time allotted to the submitter unless otherwise directed by the DMC.

Expectations

The DMC's expectation is that parties will rely on or speak to documents that are within the scope of the reconvened hearing and available on the EDN Public Consultation page of the EPA website. If any party is unable to download copies, they can request the EPA to provide soft or hard copies. The EPA may charge for hard copy material.

The DMC wish to emphasise that the introduction by any party of new information or evidence at this stage in the proceedings will be at the discretion of the DMC. If information is presented at the hearing that has not previously 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.

The hearing will be a public hearing where the applicant and submitters (and their respective witnesses, if any) who have advised that they wish to present at the hearing can speak.

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.

Virtual Hearing information

This hearing will be conducted via Zoom. Participants will be sent individual links to join the hearing (refer below for details). The following link can be utilised by parties who are not participating in the hearing or members of the public:

<https://us02web.zoom.us/j/81665720635?pwd=Q0duZGZkZHZGaGdYQkZCd1AxVEUrdz09>

Passcode: 570157 (public only)

Participant Zoom details

Each party will be sent an individual Zoom link via email for each person presenting – please do not forward this link as each link relates to a specific email address.

This link will be sent out by Streamliner (AV company conducting the Zoom) the day before the hearing. **Please let the administrator know if you have not received a link by 4.00pm on Wednesday 24 November.** Please also check your junk mailbox before contacting the administrator.

Additional matters concerning participation in the virtual hearing:

- Cell phones should be turned off.
- Computers are to be on mute until you are invited by the Committee to address the hearing.
- No filming or photos of proceedings to be taken.
- This hearing will be recorded at all times.
- When you join you will be placed in a waiting room where the administrator will add you to the hearing.

- The administrator and Streamliner (AV company conducting the Zoom) will control who can share their power-point presentation (if any) with the hearing and when.
- If there is any inappropriate conduct that arises during the hearing the Chair of the Committee may reserve the right to dismiss anyone from the hearing.
- All times are in New Zealand standard time - Time zone in Wellington (GMT+12)

Media

The hearing will be made public via remote access technology (except to the extent that any protection of sensitive information applies). Representatives of the media are free to attend and report the proceedings.

The hearing will be conducted via Zoom, it will be available online to the public via the link above, and recorded both audio visually and transcribed.

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 via media@epa.govt.nz

Transcript

The DMC will have the hearing proceedings recorded and transcribed. A transcript will be made available on the EPA website.

Final Decision

At the end of all the presentations and questions the DMC will adjourn the hearing to enter deliberations in private. Once the DMC has deliberated, if it considers it has sufficient information to reach a decision, it will formally close the hearing by issuing a minute.

A final decision will be published within 30 working days from the close of the hearing. This may be longer if further information is sought by the DMC. Parties will be notified of the decision, and it will also be available on the EPA website at www.epa.govt.nz.

Appealing the decision

Parties have the right to appeal the decision of the DMC. If any party is considering an appeal on the decision, they 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.