

This report has been cleared for submission to the Director

By Marie O'Connor Senior Inspector

Signed: M. O'Connor Date: 24/10/2012



**OFFICE OF CLIMATE,  
LICENSING & RESOURCE USE**

**INSPECTOR'S REPORT ON A TECHNICAL AMENDMENT TO AN IPPC LICENCE**

<b>TO:</b>	DIRECTOR	
<b>FROM:</b>	Patrick Byrne	Environmental Licensing Programme
<b>DATE:</b>	24 <sup>th</sup> October 2012	
<b>RE:</b>	Technical Amendment Request for Licence Register No. <b>P0467-02</b> , held by Woodville Pig Farms Limited, Woodville, Ballymackey, Nenagh, Co. Tipperary.	

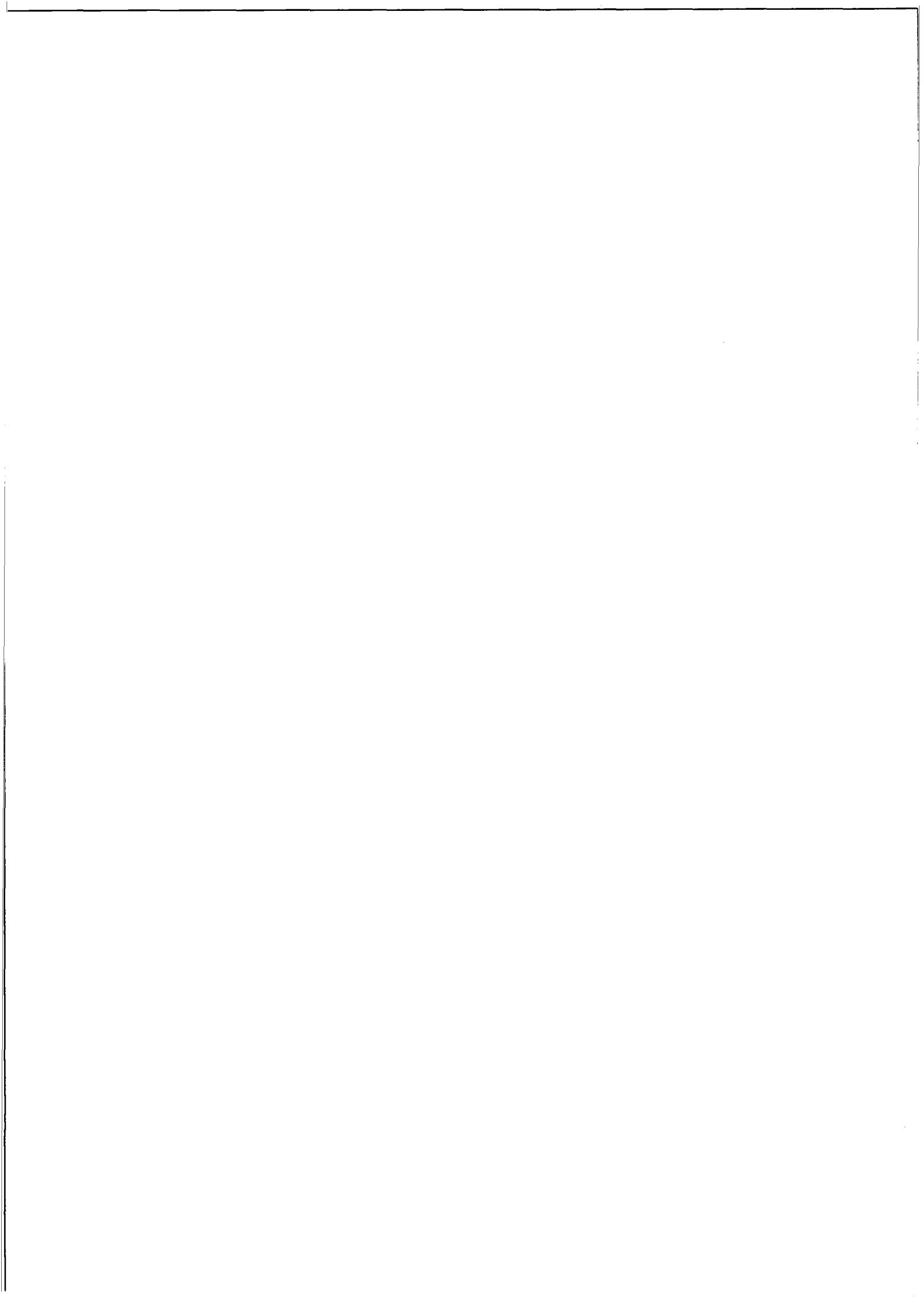
**Background:**

Woodville Pig Farms Limited was originally licensed by the Agency on the 29<sup>th</sup> March 2000, licence register no. P0467-01, to operate a 620 sow integrated unit. With the agreement of the Agency, letter dated 20<sup>th</sup> April 2004, the activity was changed to a 920 sow breeding unit. Woodville Pig Farms Limited submitted a licence review application, P0467-02, on the 24<sup>th</sup> November 2008, for an increase in sow numbers from 920 to 1,200 at the breeding unit, the inclusion of an existing 8,000 production pig rearing unit (fattening unit) at Ballyknockane and a proposed anaerobic digestion plant at Ballaghveny (production pig unit and anaerobic digestion plant included as associated activities).

A proposed determination (PD) was issued by the Agency on the 20<sup>th</sup> September 2011. The PD provided for a 920 sow breeding unit at Woodville, an 8,000 production pig unit at Ballyknockane and an anaerobic digester at Ballaghveny. The increase in sow numbers to 1,200 at the breeding unit as requested in the IPPC licence application was not provided for in the PD on the basis that the Environmental Impact Statement (EIS) provided in support of the IPPC licence review application was associated with a planning application which was withdrawn by the licensee prior to a planning decision being made.

A first party objection and two third party objections were received in relation to the PD. The first party objection included a copy of an EIS, as submitted by the licensee in support of a planning application (submitted to North Tipperary County Council on the 12<sup>th</sup> October 2011) for an increase in sow numbers from 920 to 1,200 at the Woodville site. The objections were considered by a Technical Committee, which acknowledged that a planning decision issued on the 15<sup>th</sup> December 2011 (final grant of permission issued on 28<sup>th</sup> January 2012) for the increase in animal numbers at Woodville. In relation to the requested increase in sow numbers the technical committee report states:

*It is considered beyond the scope of a Technical Committee to assess and approve an EIS for the proposed development as part of an objection to a PD. Such an assessment should be undertaken as part of a further licence review. A review would provide for statutory bodies and any other interested parties to consider the changes proposed in the EIS. Consideration of the EIS during the objection stage of the licensing process could not provide for such communication and consideration by others.*



The licensee states that the site plans submitted to the EPA with the submission on 11<sup>th</sup> October 2011 are the most relevant and up-to-date and were submitted to ensure no future ambiguity in relation to the site.

The licensee states that copies of the EIS were submitted to the EPA as part of a submission dated 11<sup>th</sup> October 2011. The licensee states that the submission was separate to the objection lodged by Woodville Pig Farms Limited to the PD (14<sup>th</sup> October 2011). The licensee states that the Agency accepted both documents and appears to want them treated as one "objection". The licensee acknowledges that the Technical Committee acknowledged that initial planning permission was granted on the 15<sup>th</sup> December 2011.

The licensee states that the planning authority would have been aware that the site had an IPPC licence and the Agency would be one of the statutory bodies to obtain a copy of the EIS from the planning authority. The Agency would therefore have had every right to comment on the EIS at that stage if it saw fit to do so.

The licensee states that it is very concerning that that the Agency would issue a licence for a substantial number of animals less than the number authorised by the Planning Authority. The licensee states that it believes that North Tipperary County Council is fully aware of and compliant with the EIA Directive. The argument for not allowing the pig numbers as shown in column 3 of Table 1 {presented above} is questionable in light of the fact that the EIS was processed by North Tipperary County Council. The licensee suggests that the Agency support the argument for inserting column 3 as suggested in the objection dated 14<sup>th</sup> October 2011 (i.e. "subject to planning permission being obtained"). The licensee requests that this be done by means of technical amendment as may be allowed under Section 96 of the EPA Acts 1992 to 2007, otherwise the licensee will be put to the expense and time of another "review".

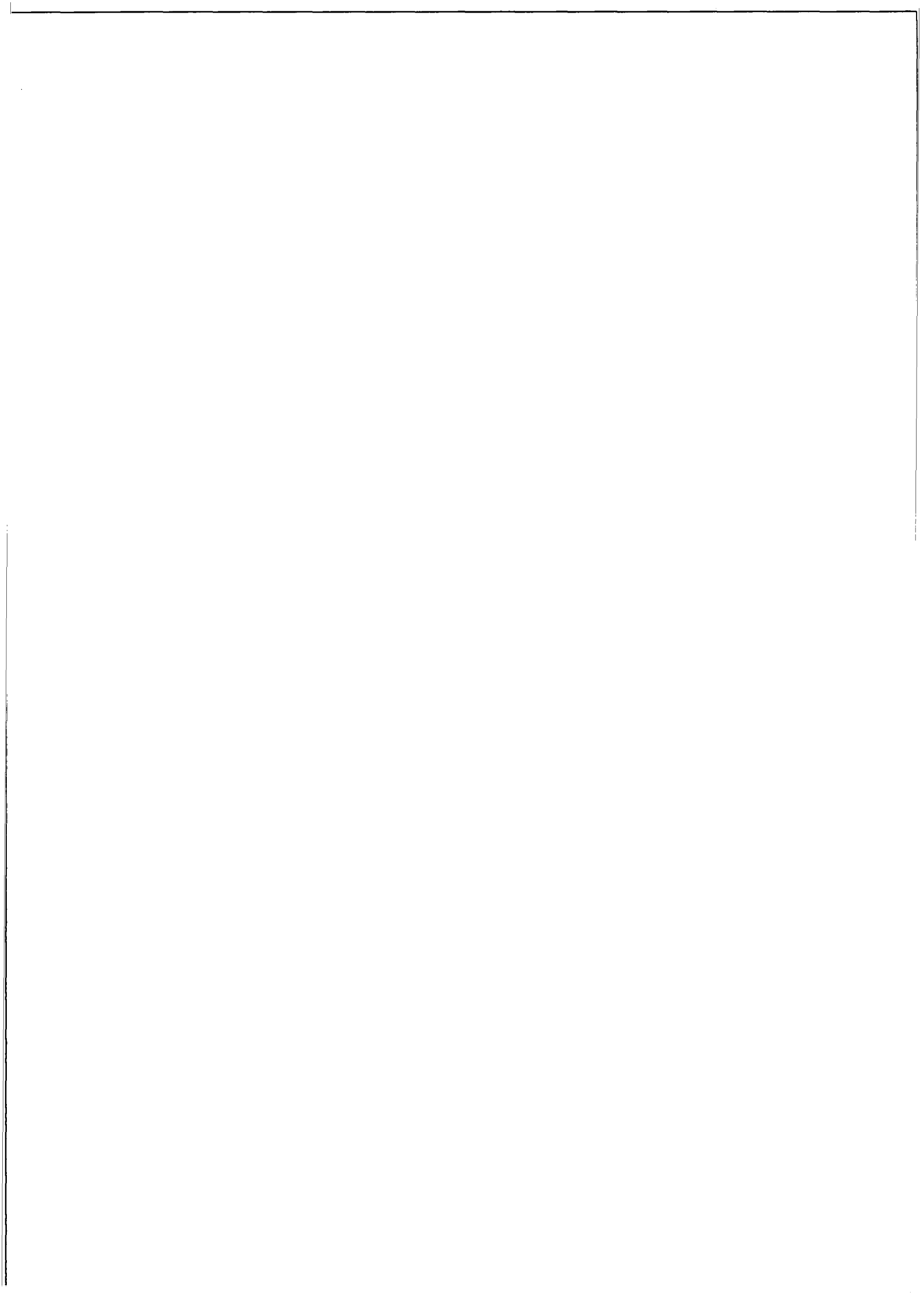
The licensee states that it would welcome the opportunity to meet with any Agency personnel to address the issues raised above.

**Assessment:**

As outlined in the 'Background' section of this memo the Agency has fully considered the licence review application and objection (including the information (EIS) submitted by the licensee on the 11<sup>th</sup> October 2011) and for the reasons as outlined in the inspector's report and technical committee report was not satisfied that the increased animal numbers could be included in the PD or Final Determination as issued on the 27<sup>th</sup> July 2012.

Following grant of a PD by the Agency only objections, accompanied by the appropriate fee, received within 28 days of the date of grant of the PD can be considered by the Agency. Therefore the correspondence (including EIS) received by the Agency on the 11<sup>th</sup> October 2011 was considered as part of the first party objection, as the alternative was to return the correspondence to the licensee without any consideration of the content.

While the licensee identifies that the EIS as submitted to the Agency on 11<sup>th</sup> October 2011 was assessed by North Tipperary County Council, it should be noted that it is also necessary for the EIS to be assessed by the Agency in consideration of an IPPC licence/review. The EPA (Licensing) Regulations include requirements in relation to the assessment of EIS, in addition the ECJ ruling against Ireland in Case C-50/09 Environmental Impact Assessment Directive, March 2011, also had to be considered.



*Any development that requires an IPPC or waste licence and planning permission and such planning application requires preparation of an EIS must be considered in accordance with the EIA Directive. While planning permission has been granted for the proposed development (December 2011){final grant of permissions issued by North Tipperary County Council on the 28<sup>th</sup> January 2012}, the planning application and in particular the EIS were not available for assessment in accordance with the EIA Regulations and Directive prior to issue of a PD. The Technical Committee is therefore not in a position to assess the EIS submitted with the first party objection and cannot approve an increase in stock numbers. The purpose of the objection stage of the licensing process, as provided for under Part V of the EPA (Licensing) Regulations, 1994 to 2010, is to allow for objections to the content of the PD.*

The Board of the Agency, following consideration of the Technical Committee Report, approved the recommendations therein. A revised licence, P0467-02, was issued on the 27<sup>th</sup> July 2012. The revised licence provides for a 920 sow breeding unit at Woodville and a production pig rearing unit at Ballyknockane (the anaerobic digester was not included following consideration of the first party objection which requested that it be removed).

**Technical Amendment Request:**

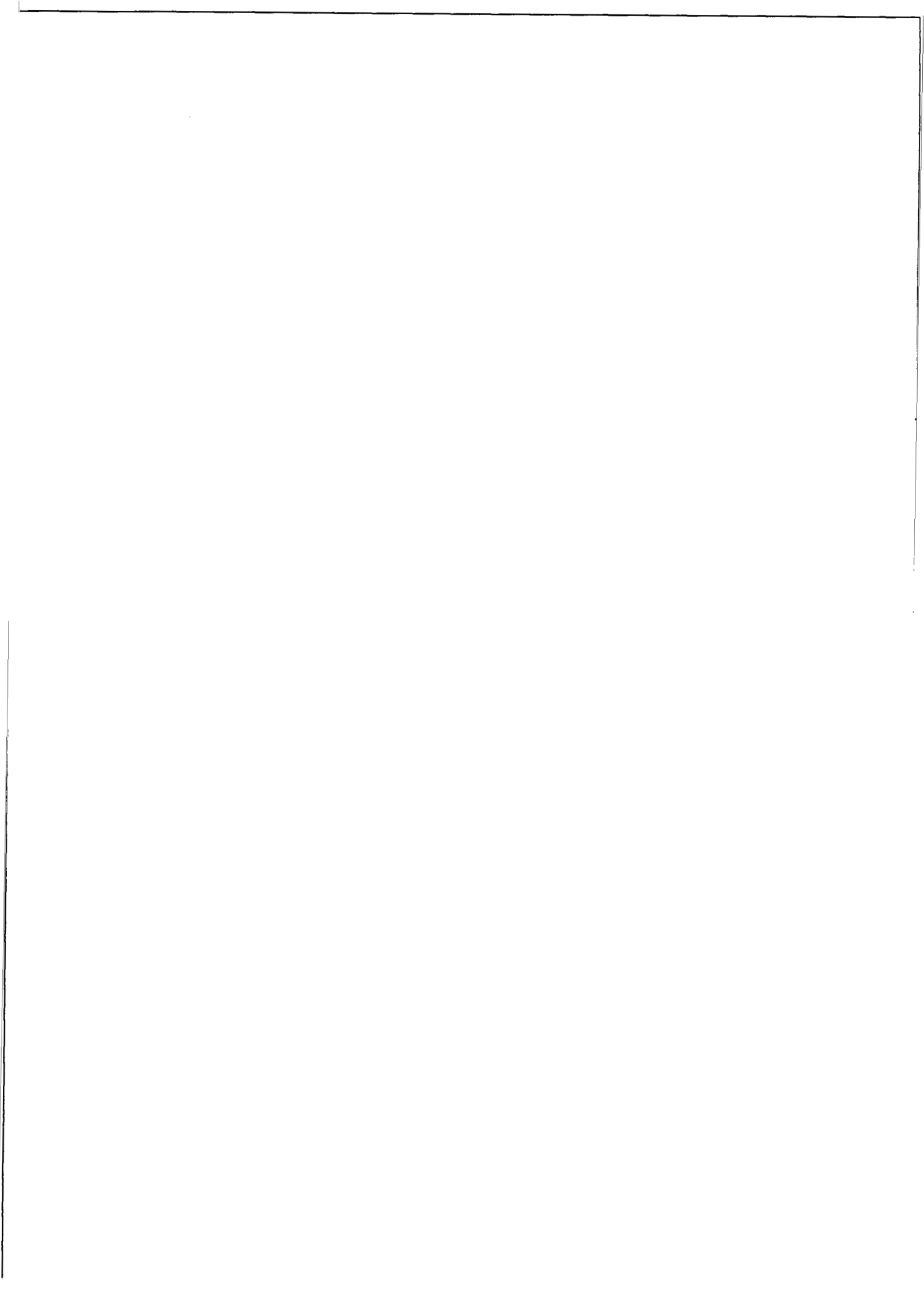
Mr Tim Cullinane on behalf of Woodville Pig Farms Limited submitted a technical amendment request, received by the Agency on the 14<sup>th</sup> September 2012, seeking an increase in the animal numbers specified in the final licence issued on the 27<sup>th</sup> July 2012. The licensee states that Woodville Pig Farms Limited has always had the intention to increase stock numbers at the breeding site (Woodville) and this was clearly stated in previous correspondence. The licensee states that all existing buildings at Woodville have planning permission and a new planning application was lodged {on 12<sup>th</sup> October 2011} with North Tipperary County Council to increase pig numbers as follows:

<b>Animal Type</b>	<b>Existing Stock Numbers</b>	<b>Proposed Numbers</b> <sup>Note 1</sup>
Farrowing Sow	220	350
Dry Sow	700	850
Gilts	109	300
Boars	12	15
Weaners	3,850	6,600
<b>Total</b>	<b>4,891</b>	<b>8,115</b>

Note 1: Full planning permission was granted by Tipperary County Council for accommodation for these numbers 28/1/2012.

The licensee states that the Agency is aware that planning permission was sought and received. The licensee states that:

- An updated EIS, as was provided to North Tipperary County Council, was forwarded to the Agency on the 11<sup>th</sup> October 2011;
- The site plans for the Woodville site were updated to allow for increased manure storage and the boundary (marked by a red line) showed clearly the buildings and location where the pig rearing activity at Woodville Pig Farms Limited is and will be carried on; and
- The monitoring point for roof/storm water (referenced as SW2 in Schedule C.2.3 of the PD) was also amended to allow for the proposed new buildings on this site.

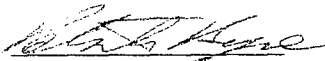


Amending legislation (European Union (Environmental Impact Assessment) (Integrated Pollution Prevention and Control) Regulations 2012) has been issued by the Department of Environment, Community and Local Government to address the ECJ ruling. The amending legislation comes into operation on 30 September 2012 and amends the EPA Acts 1992 and 2003 and also the Planning and Development Act 2000.

**Recommendation:**

It is recommended that the requested increase in animal numbers should not be accommodated by means of a technical amendment as the increase in animal numbers required the preparation of an EIS, in support of the planning application submitted to North Tipperary County Council on the 12<sup>th</sup> October 2011, which the Agency is required to assess in accordance with the EIA Directive as transposed into national legislation.

Signed:



Patrick Byrne

