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Energy, Environment & Safety

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31st July 2013

Ms. Sonja Smith
Office of Climate, Licensing & Resource Use
Environmental Protection Agency
Inniscarra
Co. Cork

Our Ref: 1182_06 Westland Horticulture
Your Ref: P0914-01

Re: P0914-01 - Environmental Impact Statement

Dear Ms. Smith

Please find enclosed an Environmental Impact Statement as part of the above IPPC Licence Application.

As per recent correspondence with Ms. Orla Harrington, the following is included:

1. Two hardcopies of this letter with the attached site notice, newspaper notice, notice location map and copy of letter to Westmeath County Council.
2. Two hardcopies of the EIS document.
3. Sixteen copies of all files in electronic searchable pdf format.
4. Accompanying Legal Submission from Arthur Cox solicitors.

If you require any further clarification on the above then please do not hesitate to contact the undersigned.

Yours Sincerely,
for OES Consulting

Siobhan Maher

CC: Mark Hamill, Westland Horticulture Ltd.

FBD House
Fels Point
Tralee
Kerry

Building 1000
City Gate
Mahon
Cork

Unit 10 D
Southern Link
Business Park
Naas
Co. Kildare

Site Notice

Application to the Environmental Protection Agency for an IPPC license

Westland Horticulture Limited, 14 Granville Industrial Estate, Granville Road, Dungannon, Co. Tyrone will apply to the Environmental Protection Agency for an Integrated Pollution Prevention and Control Licence under class 1.4 in respect of its current operations at Ballinealoe, Mayne, Lower Coole & Clonsura, County Westmeath.

These operational sites are located at National Grid References:

E239259, N271289

E239246, N271815

E239547, N272724

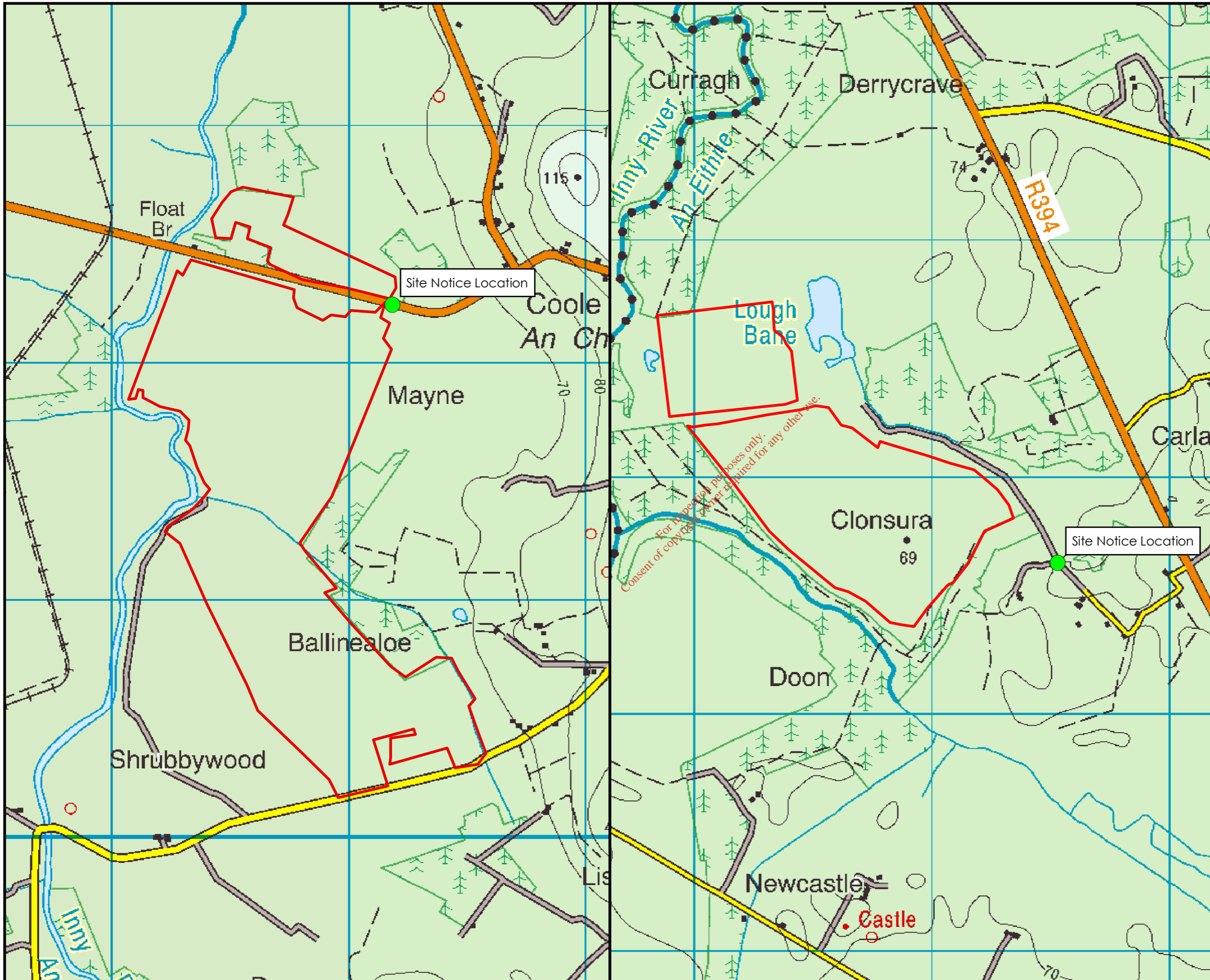
E241639, N276801

The class of activity on the sites as described under class 1.4 of the First Schedule of the Environmental Protection Agency Acts of 1992 – 2011 is the extraction of peat in the course of business which involves an area exceeding 50 hectares.

An Environmental Impact Statement (EIS) will be submitted to the Agency with this application. A copy of the EIS will be submitted to Westmeath County Council. The EIS and any further information relating to the effects on the environment of the emissions from the activity which may be furnished to the Agency in the course of the Agency's consideration of the application will be available or may be inspected at the headquarters of the Agency Johnstown Castle Estate, Wexford as soon as is practicable after the receipt by the Agency of the application.

SIGNED: M. Hanrahan

DATED: 30/7/2013



Legend

● Site Notice Locations



OES Consulting 2nd Floor, FBD House, Fels Point, Trollee, Co Kerry
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Client:	Westland Horticulture Ltd.	
Project:	EIS of Westland Peat Harvesting Operations	
Title:	Cover Letter - Site Notice Locations	
Scale:	1:15,000 @ A3 Paper Size	
Ref:	Figure 1	
OES Ref:	F_11820627_00	
Revision:	00	
Document Control:	Date:	30/07/2013
	Drawn By:	JK
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	Approved By:	SM

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31st July 2013

**County Secretary
Westmeath County Council
County Buildings
Mullingar
Co. Westmeath**

Our Ref: 1182_06 Westland Horticulture

Your Ref: n/a

Re: P0914-01 Westland Horticulture Ltd.

Dear County Secretary

Please find enclosed the following with respect to IPPC license application Ref. No. P0914-01:

1. Environmental Impact Statement.
2. Copy of legal submission from Arthur Cox Solicitors to the EPA on behalf of Westland Horticulture Ltd.

If you require any further clarification on the above then please do not hesitate to contact the undersigned.

Yours Sincerely,
for OES Consulting

Siobhan Maher

CC: Mark Hamill, Westland Horticulture Ltd.

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ARTHUR COX

DUBLIN · BELFAST · LONDON · NEW YORK · SILICON VALLEY

“WITHOUT PREJUDICE”

Our Reference: DS/M2L/WE071/003/

31 July 2013

Ms Sonja Smith
Office of Climate, Licensing & Resource Use
Environmental Protection Agency
Iniscarra
Co. Cork

**Re: Integrated Pollution Prevention and Control (“IPPC”) Licence Application,
Reg. P0914-01**

Our Client and Proposed Licensee: Westland Horticulture Limited

Dear Sirs

This legal submission is to accompany the submission of an Environmental Impact Statement (“EIS”) in relation to the above IPPC licence application on behalf of our Client by OES Consulting.

This legal submission is made without prejudice to ongoing Judicial Review proceedings instituted by our Client against An Bord Pleanála, arising out of An Bord Pleanála’s determination on a section 5 referral to it from Westmeath County Council (the “High Court Proceedings”) (Record No. 2013/424 JR). Our Client asserts in those proceedings that An Bord Pleanála erred in deciding that peat extraction and related activities on its boglands, the subject of the current IPPC licence application, comprised development and were not exempted development. One of our Client’s grounds in that case is that its activities on the site continue to comprise exempted development. Further, no planning permission or Environmental Impact Assessment (“EIA”) is required, on the basis that the site (which is the subject matter of the IPPC Licence application) does not comprise any new or extended area or 30 hectares or more.

In the course of its consideration of our Client’s IPPC licence application, the Environmental Protection Agency (the “Agency”) issued an “EIA Screening Decision” on 10 January 2013, determining that an EIA is required to be carried out by the Agency. The sole reason given for this determination was that the activity the subject of our Client’s licence application fell within a

Eugene McCague, Donogh Crowley, John S Walsh, Michael Meghen, William Johnston, Nicholas G Moore, Declan Hayes, David O'Donohoe, Colm Duggan, Carl O'Sullivan, Isabel Foley, John Meade, Conor McDonnell, Patrick McGovern, Grainne Hennessy, Séamus Given, Colin Byrne, Caroline Devlin, Ciarán Bolger, Gregory Glynn, David Foley, Stephen Hegarty, Declan Drislane, Sarah Cunniff, Kathleen Garrett, Pádraig Ó Ríordáin, Elizabeth Bothwell, William Day, Andrew Lenny, John Menton, Patrick O'Brien, Orla O'Connor, Brian O'Gorman, Mark Saunders, Mark Barr, John Matson, Deborah Spence, Kevin Murphy, Cormac Kissane, Raymond Hurley, Kevin Langford, Eve Mulconry, Philip Smith, Kenneth Egan, Bryan J Strahan, Conor Hurley, Alex McLean, Glenn Butt, Níav O'Higgins, Fintan Clancy, Rob Corbet, Rachel Farrell, Siobhán Hayes, Pearse Ryan, Ultan Shannon, Dr Thomas B Courtney, Orla Keane, Aaron Boyle, Rachel Hussey, Colin Kavanagh, Kevin Lynch, Garrett Monaghan, Geoff Moore, Fiona McKeever, Chris McLaughlin, Maura McLaughlin, Joanelle O'Leirigh, Paul Robinson, Richard Willis, Tim Kinney, Deirdre Barrett, Cian Beecher, Ailish O'Connell, Jennifer O'Leary, Conor O'Dwyer, Jenny Fisher, Robert Cain, Brendan Cooney, Connor Manning, Gary McSharry, Keith Smith, John Donald, Dara Harrington, David Molloy, Stephen Randalow, Jonathan Sheehan, Brendan Slattery, Gavin Woods, Simon Hannigan, Claire McGrade, Colin Monaghan, Susan O'Reilly, Niamh Quinn, Colin Rooney

Consultants: James O'Dwyer, Daniel E O'Connor, John V O'Dwyer, John Glackin, Dr Mary Redmond, Dr Yvonne Scannell, Dr Robert Clark

particular class¹ of development, namely “*Peat extraction which would involve a new or extended area of 30 hectares or more*”. As a result, the Agency requested our Client, by notification dated 18 January 2013, to submit an EIS.

It is our view that in relying on the above reason to reach its determination in the EIA Screening Decision, the Agency fell into error because our Client’s activity the subject matter of this IPPC Licence application does not in fact comprise *new or extended peat extraction* of any area. On the contrary, as is argued for in the High Court Proceedings, the peat extraction has continued on broadly the same footprint of land since 1993 for the lands at Coole, Maine and Ballinealoe, and since 1999 on the lands at Clonsura. Thus the reason given by the Agency to carry out an EIA of our Client’s peat harvesting activity does not apply in this case.

Accordingly, it is our advice to our Client and our legal view, supported by Counsel, that the basis upon which our Client has been required to submit an EIS to the Agency is incorrect.

We wish to confirm therefore that the EIS which accompanies this legal submission is being submitted to satisfy the Agency’s requirement to carry out an EIA, but strictly speaking is not being submitted in accordance with the Agency’s notification to our Client dated 18 January 2013.

Finally, the within EIS is not meant to be, and should not be taken to be, an acceptance of any requirement for planning permission or EIA to be sought or carried out by our Client under planning legislation, and accordingly is submitted without prejudice to the High Court Proceedings.

Yours faithfully



ARTHUR COX

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¹ Class 2 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 – 2012