



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

**ADDENDUM TO REPORT OF THE TECHNICAL
COMMITTEE ON OBJECTIONS TO LICENCE
CONDITIONS**

TO:	Directors
FROM:	Technical Committee Environmental Licensing Programme
DATE:	3 December 2015
RE:	Objection to Proposed Determination for Murphy Environmental Hollywood Limited, IEL Reg.: W0129-03.

The Board of the Agency considered the following documentation on 7th July 2015 (Board Meeting Number 816) with respect to the Proposed Determination for Murphy Environmental Hollywood Limited, IEL Reg. W0129-03: Proposed Determination issued on 25 June 2014; 1 First-Party objection; and the Report and recommendations of the Technical Committee, Office of Climate, Licensing, Research and Resource Use, dated 30th June 2015.

The Board requested the Technical Committee (TC) to prepare an addendum report to the Technical Committee Report on the applicant's objections regarding financial position and fit and proper person status. In this regard the TC requested Deloitte Ireland¹ to update its *Report for Environmental Protection Agency reviewing the financial position of Murphy Environmental Hollywood Ltd* dated May 2014.

This report is an addendum to the TC report of 30th June 2015.

Objections regarding financial position and fit and proper person status

The applicant's objection on this matter takes in three points in the Agency's assessment for the PD.

1. The applicant objected to Reason 7 in the Inspector's Report recommending a refusal of the licence application. Reason 7 stated "*The applicant has not demonstrated an ability to meet the financial commitments or liabilities (e.g., calculated cost for the CRAMP and ELRA²) that will be entered into or incurred in carrying on the activity to which the application relates*".

The applicant stated that it considers its proposal for financial provision (FP) included in its licence application to be a robust approach to ensuring that FP requirements are fully in place, in a timely fashion, in advance of CRAMP/ELRA liabilities arising. The applicant did not propose anything

¹ Deloitte Ireland is a member of Deloitte Touche Tohmatsu Limited.

² CRAMP: Closure Restoration and Aftercare Management Plan; ELRA: Environmental Liabilities Risk Assessment; FP: Financial Provision.

different in its objection. The proposal presented by the applicant in their licence review application was to condition the requirement for financial provision in the licence, where the licensee would have to put in place the FP prior to the commencement of construction activities related to the proposed development.

The applicant states that the majority of the FP liability arises only upon the commencement of waste acceptance, so it considers the proposal to put FP in place at the construction stage to be a 'worst-case' scenario.

The applicant considers its proposal mirrors the standard licensing requirements for specified engineering works where the licensee is obliged to obtain Agency approval for various stages of landfill construction works related to the proposed development. In particular, for the FP proposals, the applicant would have to prove that the calculated FP sum is in place, for each phase of works, prior to seeking consent from the Agency to proceed with that phase of works.

Technical Committee's Evaluation:

The objection does not propose anything different with regards to financial provision or provide any new information to support the proposal included in the licence review application. The TC considers the matter was suitably addressed in the inspectors report dated 12th June 2014, which was considered by the Board of the Agency prior to issuing the Proposed Determination.

The TC therefore agrees with the inspector, and finds that the applicant has still not provided particulars that would be sufficient to establish its ability to meet the financial commitments or liabilities arising under the ELRA and CRAMP that would be entered into or incurred by it in carrying on, or in consequence of ceasing to carry on, the proposed activity.

Accordingly the TC is not satisfied that the applicant would be in a position to meet the financial commitments or liabilities that would be entered into or incurred in carrying on, or ceasing to carry on, the proposed activity nor has it made such financial provision as would be adequate to discharge those liabilities. The TC is therefore not satisfied that the applicant would be a fit and proper person to hold a licence.

Recommendation: No change.

2. The applicant objected to the comments on page 19 (Section 4.13) of Deloitte and Touche's report for the Agency reviewing the financial position of MEHL, i.e., *"If the estimates are correct the levy could generate sufficient cash to meet the cash based element of the CRAMP provision. However, we consider that regular reporting to the Agency would be required to ensure the income is meeting the estimates."*

The applicant considers this matter can be addressed by a licence condition and notes the frequency for reviewing and reporting CRAMP (every three years), FP (annually) and aftercare reporting in the aftercare phase of CRAMP (annually) included in the applicant's proposal for CRAMP and ELRA.

Technical Committee's Evaluation:

As noted above, the objection does not propose anything different with regards to financial provision or provide significant additional information to support the proposal included in the licence review application. The TC considers the matter was suitably addressed at licensing stage and reiterates its conclusion at paragraph 1 above.

Recommendation: No change.

3. The applicant objected to reference in the Inspector's Report to the preliminary examination of the financial provision proposals by the Agency's legal services team who stated:
- (i) *"Insurance, in respect of ELRA, is not normally accepted by the Agency as an adequate means of covering unexpected incident costs.*
 - (ii) *A bond is proposed to cover the entire CRAMP costs. A cash deposit will gradually displace the value of the bond. The cash deposit is proposed to be funded by means of a levy on each tonne of waste accepted at the installation. This funding model is not normally accepted by the Agency. Instead, a schedule of deposit of fixed cash amounts is preferred."*

The applicant states that the approach proposed was based on Agency guidance in force at the time of writing, i.e., *EPA (2014) Guidance on Assessing and Costing Environmental Liabilities*. The applicant also states that, in their CRAMP/ELRA report, they noted the intention of the Agency to issue new guidance on financial provision but considered they proposed a 'robust FP mechanism' which would be 'subject to the agreement of the Agency in terms of specifics surrounding legal/contractual details'.

The applicant notes that the FP guidance was still outstanding at the time of making their objection. The applicant argues that, in the absence of published EPA guidance on FP, the FP model proposed by the applicant and put forward in the CRAMP/ELRA report is a robust approach to achieving FP objectives. In particular, the applicant contests that, 'in the absence of published EPA guidance on the matter, licence applicants may be unfairly assessed in terms of proposals advanced as part of the licence application process.'

Technical Committee's Evaluation:

While financial provision is referred to in *EPA (2014) Guidance on Assessing and Costing Environmental Liabilities*, the document does not provide guidance on making financial provision, and this was noted in this guidance document. While new FP guidance was in the pipeline (and has subsequently been published September 2015) there was FP guidance in the 2006 version of the guidance, *Guidance on Environmental Liability Risk Assessment, Residuals Management Plans and Financial Provision* (EPA, 2006), which was applicable at the time of application.

If the TC was recommending grant of a licence, and if the proposal received was sufficiently detailed in other respects, it might consider it appropriate to request that the applicant submit a proposal based on the 2015 Guidance. However, as it is recommending refusal of a licence for other reasons, it has not considered it appropriate to do so.

As noted above, the objection does not propose anything different with regards to financial provision or provide any significant additional information to support its existing proposal. The TC considers the matter was suitably addressed at licensing stage and reiterates its conclusion at paragraph 1 above.

Recommendation: No change.

4. The applicant also submitted a report from Smith & Williamson Holdings Limited (an accounting and consulting firm) to provide the following:
 - (i) an opinion as to whether MEHL has the ability to meet the calculated financial commitments and liabilities taking into account known and potential liabilities from other sources that might impact on the ability of the applicant to so meet its commitments and liabilities.
 - (ii) an opinion (with rationale) as to whether MEHL can be deemed fit and proper person for the purpose of Section 83(5)(xi) of the EPA Act 1992, as amended.

Smith & Williamson stated the following:

Murphy Concrete Manufacturing Limited (MCM) began quarrying at the Hollywood site in 1975. In 2003, Murphy Environmental was established as a trading division of MCM, to serve as the waste management division of the company. MEHL was established on 1st October 2008 as a separate legal entity in the form of a limited company and the Agency accepted the transfer of waste licence (W0129-02) from MCM to MEHL at this time.

Smith & Williamson identified that the work carried out by them comprised a financial review on behalf of MEHL. The work included a review of the company's financial statements for the years ending 31st March 2011, 2012 and 2013. The work also included a review of the Deloitte and Touche report carried out on behalf of the Agency in regard to the financial position of MEHL, valuation reports prepared by Lisney in 2008 and 2009, and correspondence between the Agency and MEHL's environmental consultants in relation to information concerning CRAMP, ELRA and financial provision.

Findings and observations in the Smith and Williamson report included:

- a) *The company has reported losses of €562,012 in 2013 and €603,434 in 2012. The report states the retained losses mainly arise from interest costs and depreciation in 2013. The report states that the company's EBITDA (earnings before interest, tax, depreciation and amortisation) has improved considerably in 2013 from 2012 (reducing from €316,328 to €126,790). The report also states that the construction sector has been through the worst recession in the sector in living memory and that this has had a significant impact on the results of the company in recent years.*
- b) *The company's borrowings were transferred to NAMA in 2011. The company's operations have continued to be financed by its financiers throughout this period. The financiers have supported the company in its licence application process and have funded the costs of the application.*
- c) *The net assets of the company amount to €8.15m as of 31st March 2013 (€8.72m in 2012). The report also states that a positive decision in regard to*

the licence application would allow MEHL to further develop its business plan to secure the necessary investment to develop this project.

- d) All of the company's finance facilities are on demand facilities – the report states this is not unusual for borrowings in NAMA. The financiers have enabled the company to continue to trade and have been financing the costs incurred and trading losses of the company since 2011. MEHL has the financier's support and approval of its business plan. The report also states that, if the licence is granted, it is envisaged that the asset value of MEHL will increase significantly and enable the project to be financed to the next stage.*
- e) MCM has provided a guarantee in relation to the bank borrowings of MEHL. The report also states that because the company's financiers continue to support MEHL, this guarantee is not relevant at this juncture.*
- f) The audit reports attached to the recent financial statements of MEHL have been disclaimed, due to the limited evidence available regarding the value of land and buildings in the marketplace at that time and given the materiality of the figure in the financial statements. The valuations of tangible assets included in recent financial statements were completed by the company directors.*

Independent professional valuations have not been completed given the state of the construction market and the value of land in the 'turbulent' marketplace of the last 5 years. The last such valuation completed by Lisney on 30 November 2009 valued the lands and buildings at €25.5m, who previously valued the land at €52.5m in August 2008. The report states that at the time the land and buildings had the benefit of Waste licence Reg. No. W0129-02. The reports states the company has made significant progress since including obtaining planning permission from An Bord Pleanala for the proposal under consideration (IE licence application reg. no. W0129-03).

The report notes the directors of the company have not sought an up to date valuation in recent financial statements because there was no functioning market place for such lands in recent years. The company's financiers did not require up to date valuations to support the company's business plan.

- g) The report notes the auditors included an emphasis of matter paragraph in their audit reports concerning the ability of the company to continue as a going concern and the adequacy of the disclosure made in 'note 2' of the financial statements. The auditors state in recent audit reports regarding the going concern:*

"This is dependent on the predictions within the cashflow projections being achieved, the directors would be successful in negotiating the necessary financial support and that the company would be successful in its licence application. These matters indicate the existence of a material uncertainty which may cast doubt about the company's ability to continue as a going concern".

The report states the company's financiers, to date, have been supportive of the company in seeking the licence application. The report also states that the directors are confident that they will be able to secure the necessary financial support to progress the development if they get a licence from the Agency for it.

- h) The report envisages that the asset values of MEHL will increase significantly if a licence is granted, and states that this will enable the company to secure*

the necessary financing to bring the project to the next stage. The report states that the Agency can put financial conditioning in place prior to allowing the company to operate the facility in accordance with the licence granted.

The report notes that MEHL submitted a report to the Agency in May 2014 detailing the ELRA, CRAMP and financial provisions to be put in place for the proposed facility. MEHL proposed a cash based account funded by way of a levy and a bond to cover the CRAMP, where the levy proposed would generate sufficient cash to meet the cash based element of the CRAMP provision.

The report notes that for the various stages of landfill construction works ("specified engineering works") the licensee would be obliged to obtain Agency approval and proposes that the applicant would be required to provide that the calculated financial provision sum is in place, for each phase of works, prior to seeking consent from the Agency to proceed with the phase of works. This is put forward as a robust approach to ensuring that the financial provision requirements are fully in place in a timely fashion, in advance of potential CRAMP/ELRA liabilities arising.

The Smith & Williamson report concludes by stating that if MEHL are granted a licence for the proposed development, "it is our view that the company would be able to secure the necessary financing to be able to meet the financial obligations it would have in relation to the conditions attaching to an EPA Waste licence and that MEHL can be deemed a fit and proper person for the purpose of Section 83(5) Subset 11 of the EPA Act 1992 as amended as it continues to be supported by its financiers during this process".

Technical Committee's Evaluation:

Given this objection raises financial arguments related to fit and proper person status, the TC sought professional advice from Deloitte Ireland who had provided advice to the Agency at the Proposed Determination stage of the licence application.

The TC requested Deloitte to update its assessment of the financial position of MEHL and its ability to meet its obligations under Section 83(5)(xi) of the EPA Act 1992 as amended (see attached).

Deloitte have updated their findings (report of 29 October 2015, see attached) based on the 2013 profit and loss account included in the Smith & Williamson report and the 2014 abridge accounts filed with the CRO (the previous assessment was based on 2011 and 2012 filed financial statements).

Deloitte note that MEHL reported after tax losses in 2013 and 2014 of €0.56m and €0.93m respectively. Deloitte states they these losses continue to diminish the company's ability to meet its obligations under Section 83(5) of the EPA Act as amended. Deloitte also noted that the net current liabilities of MEHL significantly deteriorated in the period to March 2014, to a negative of €10.4m. Deloitte stated that this appears to arise due to bank loans falling due within one year.

Deloitte noted that no independent professional valuations were carried out for the purposes of the 2013 and 2014 audited accounts. Deloitte state that these should be completed to ensure the accounts accurately reflect the true value of assets.

Deloitte noted that the company's debt remains in NAMA and that no update has been provided on MEHL's business plan or asset disposal strategy with NAMA.

Deloitte noted that the auditors disclaimed their opinion on the financial statements for 2013 and 2014 due to the absence of independent professional valuations of the company's land and premises.

In its previous assessment in May 2014 Deloitte stated that if MEHL is unable to obtain additional financial support or if the banks seek to recover the loans made to MEHL, there is a possibility the loan guarantee that MCM has given MEHL over its bank borrowings could be called upon. In particular Deloitte stated that MCM does not appear to have sufficient assets to satisfy the guarantee which is provided to MEHL. In its most recent assessment Deloitte makes no change to this position. Likewise Deloitte make no change to its assessment that the financial position of Seamus Murphy and Property Development Limited has no relevance to MEHL.

Deloitte noted that the company's financial position appeared to have weakened further since the previous assessment in 2014 due to the losses incurred in 2013 and 2014.

Deloitte also made the following comments on the Smith & Williamson report.

- a) No details are provided on the nature, stability, duration, or conditions of the support provided to the company from NAMA. Furthermore no information is provided on the company's business plan with NAMA which in Deloitte's experience should include details of asset realisation dates, directors' realisation values, and steps for realisation of the Company's assets.
- b) Deloitte noted that the NAMA debt is classified as falling due within one year in the 2014 accounts and can only conclude that the NAMA support is on a day-to-day basis with no commitment to the viability of the business even if a licence is granted.
- c) Deloitte state that in their opinion, no evidence, such as a business plan, funding proposal, or loan offer has been provided to support the conclusion included in the Smith & Williamson report that asset values would increase sufficiently on receipt of an EPA licence or that the Company could raise the necessary finance.

In view of the above assessment by Deloitte, the TC concludes that the applicant still has not provided particulars that would be sufficient to establish its ability to meet the financial commitments or liabilities arising under the ELRA and CRAMP that would be entered into or incurred by it in carrying on, or in consequence of ceasing to carry on, the proposed activity.

Accordingly the TC is not satisfied that the applicant would be in a position to meet the financial commitments or liabilities that would be entered into or incurred in carrying on, or ceasing to carry on, the proposed activity nor has it made such financial provision as would be adequate to discharge those liabilities. The TC is therefore not satisfied that the applicant would be a fit and proper person to hold a licence.

The TC sees no reason to change the conclusion regarding MEHL's fit and proper person status.

Recommendation: No change.

Signed

A handwritten signature in black ink, appearing to read "John McEntagart". The signature is written in a cursive style with some loops and flourishes.

John McEntagart

for and on behalf of the Technical Committee

Appendix

John Mc Entagart,
Office of Environmental Enforcement
Environmental Protection Agency
McCumiskey House,
Richview,
Clonskeagh,
Dublin 14

29 October 2015

Dear Sirs,

RE: Murphy Environmental Hollywood Limited

1 INTRODUCTION

Deloitte (“Deloitte” or “we”) was engaged by the Environmental Protection Agency (“EPA” or “Agency” or “you”) under the Terms and Conditions of Contract dated 7 April 2014 to comment on the Financial Position of Murphy Environmental Hollywood Limited (“MEHL” or “the Company”) and its ability to meet its obligations under section 83 (5)(xi) of the EPA Act 1992 as amended. We issued a report of our findings in May 2014 “May 2014 Report”.

In July 2014 Smith and Williamson issued a report, under an engagement commissioned by MEHL, on the Deloitte May 2014 Report and on Company’s ability to meet its obligations under section 83 (5)(xi) of the EPA Act 1992 as amended, “Smith Williamson Report”.

We have set out below an update on our May 2014 Report for additional information received and our observations on the Smith Williamson Report.

Audit · Tax · Consulting · Corporate Finance

P.J. Barton	R. Howard	D. Murray	P. Brennan	J. O’Connor	D. Carson	D. Lehane
K. Butler	B. Jackson	C. O’Brien	P. Burger	D. O’Donovan	D. Dalton	S. Mahan
T.M. Cassin	M. Larkin	B. O’Callaghan	D.J. Butler	J. O’Flynn	J. Duddy	S. Murphy
G. Casey	G. Lyons	E. O’Shaughnessy	R. Cronin	D. Power	K. Fennell	D. O’Flanagan
G. Fitzpatrick	J. McCarrroll	M. Reilly	K. Frawley	M. Sheehan	A. Flanagan	D. Reynolds
B. Forrester	E. McCarthy	K. Sheehan	N. Glynn	S. Smith	M. Flynn	D. Van Dessel
M.E. Fulton	C. McDonnell	C. Treacy	L. Griffin	J. Whelan	H. Goddard	
N. Geraghty	C. MacManus	N.A. Walsh	D. Hamberry	P. Whelan	D.F. Hearn	
G. Gillard	H. Moore		C. Hynes		C.P. Hughes	
D. Griffin			L. Kelly		T. Kavanagh	
M. Hartwell			T. Maguire		P. Kearney	
E. Healy					D. Kinsella	

B. Jennings

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2 UPDATE ON OUR REPORT DATED MAY 2014

Below is a synopsis of the Executive Summary from our May 2014 Report with commentary where additional information has been received since the date of the report.

	Deloitte Executive Summary May 2014	Current position
2.1	MEHL and MCM have breached Irish Company Law by not filing their financial statements on time with the CRO for the three years ended March 2013. The 2013 financial statements, with a year end 31 March 2013 should have been filed by the deadline of 31 December 2013. These accounts have not been filed to date.	The 2013 accounts for MEHL were filed with the CRO after issue of the May 2014 Report and the 2014 accounts were filed on time.
2.2	We have relied on the 2011 and 2012 filed financial statements for the purpose of our report.	We have updated our findings below for the 2013 profit and loss account included in the Smith Williamson Report and the 2014 abridged accounts filed with the CRO.
2.3	MEHL reported a loss in both 2011 and 2012. The net current assets were broadly equal to the current liabilities of the Company in both years.	<p>MEHL reported after tax losses in 2013 of €0.56m and 2014 of €0.93m. These losses continue to diminish the Company's ability to meet its obligations under S83(5).</p> <p>The net current liabilities of the Company significantly deteriorated in the period to March 2014 and now represent a negative €10.7m. This appears to arise due to bank loans being classified as falling due within one year.</p>

Deloitte Executive Summary May 2014		Current position
2.4	The valuations of the tangible assets included in the financial statements for both years were completed by the Company directors and may therefore be overvalued. Independent professional valuations should be completed as this will ensure the accounts accurately reflect the true value of the assets.	No independent professional valuations were carried out for the purposes of the 2013 or 2014 audited accounts.
2.5	The filed financial statements of MEHL's related companies, MCM and Seamus Murphy Property and Development Limited, are showing the companies in a loss making position, with Seamus Murphy Property and Development Limited having a receiver appointed in 2014.	No change
2.6	MEHL's debt was transferred to NAMA during 2011. No further update was provided in relation to the debt transferred to NAMA or the business plan submitted by the Company to NAMA and as such we cannot comment on the viability of the business plan and its impact, if any, on the future financial position of the Company.	The Company's debt remains in NAMA. No update has been provided on MEHL's business plan or asset disposal strategy with NAMA.
2.7	In 2011 and 2012 the auditors were not provided with adequate information to issue an opinion on the financial statements of MEHL. The auditors noted that the continuing trade of the Company is on the basis the licence will be granted to the Company by the Agency.	The auditors disclaimed their opinion on the financial statements for 2013 and 2014 due to the absence of independent professional valuations of the Company's land and premises.

	Deloitte Executive Summary May 2014	Current position
2.8	<p>MCM has given a guarantee over the bank borrowings of MEHL. Our assessment of the position is that if MEHL is unable to obtain additional financial support or if the banks seek to recover the loans made to MEHL, there is a possibility the loan guarantee could be called upon. Based on the financial information which is publicly available MCM does not appear to have sufficient assets to satisfy the guarantee which is provided to MEHL.</p>	No change
2.9	<p>The financial position of Seamus Murphy Property and Development Limited has no relevance to MEHL.</p>	No change
2.10	<p>A report was submitted to the EPA in May 2014 detailing the ELRA, CRAMP and financial provisions to be put in place for the integrated waste management facility.</p> <p>MEHL propose the CRAMP financial provisions will be covered by a cash-based account, funded by way of a levy, and a bond.</p> <p>If the estimates are correct the levy could generate sufficient cash to meet the cash based element of the CRAMP provision. However as the current financial position of the Company is weak it is not starting the process with any surplus cash to meet any shortfall which may arise.</p>	<p>The Company's financial position appears to have weakened further since the May 2014 Report due to the losses incurred in 2013 and 2014.</p>
2.11	<p>While a bond might be considered a sensible approach for funding the balance of the CRAMP financial provision, MEHL have not provided details of how they will fund the initial bond.</p>	<p>No further information has been provided on how a bond might be financed.</p>

	Deloitte Executive Summary May 2014	Current position
2.12	The ELRA provision will be covered by insurance. We cannot comment on MEHL's ability to receive adequate insurance cover for the ELRA as the Company does not have environmental liability insurance in place for their current facility.	No further information has been provided on MEHL's ability to obtain insurance cover for the ELRA.

3 OBSERVATIONS ON SMITH AND WILLIAMSON REPORT

Financial Support provided by NAMA

The Smith Williamson Report makes a number of references to support provided to the Company from NAMA. No details are provided on the nature, stability, duration, or conditions of this support. Furthermore, no information is provided on the Company's business plan with NAMA which in our experience should include details of asset realisation dates, director's realisation values, and steps for realisation of the Company's assets.

We note that the NAMA debt is classified as falling due within one year in the 2014 accounts and can only conclude that the NAMA support is on a day-to-day basis with no commitment to the viability of the business even if a licence is granted.

Asset Valuation and Ability to Raise Finance

Smith and Williamson make the assertion that the EBITDA position of the Company has improved in 2013. However, this is still a year in which a significant loss arose and was followed in 2014 by another loss making year, the fifth in a row. Smith and Williamson comment that "should the license be granted, it is envisaged that the asset value of MEHL will increase significantly and enable the project to be financed to the next stage". This finance would enable MEHL to meet the financial obligations arising from the EPA licence and allow the Company be deemed a fit and proper person for the purposes of Section 83(5). In our opinion no evidence, such as a valuation, business plan, funding proposal, or loan offer has

been provided to support the conclusion that asset values would increase sufficiently on receipt of an EPA licence or that the Company could raise the necessary finance.

We note that the Company has not obtained an independent valuation of its freehold land and buildings to support the assertions on asset values. We understand that no valuation was sought for the Company's land and premises on the basis that the directors consider that there was "no functioning market in recent years for such lands¹". We cannot therefore understand how Smith Williamson can form an opinion on the potential value of the Company's assets with the benefit of an EPA waste licence in circumstances where the directors of MEHL consider that no functioning market exists.

In addition, in order to attract a financier the Company would need to demonstrate an ability to generate a trading profit, this is not addressed in the Smith Williamson report. We note that MEHL generated an EBITDA loss each year from 2011 to 2013. EBITDA generally represents the cash generated by a business before loan payments, taxation and capital expenditure. The historic EBITDA losses signify that MEHL generated no cash during the period 2011 to 2013. In fact, it appears that the Company required loan advances from its financiers to meet day to day expenses. No information has been provided on the potential profitability of the business on receipt of an EPA licence or on discussions (if any) with potential financiers.

On the basis of the above we consider that no evidence has been provided to support the contention that the company could source new finance to meet the obligations arising from the EPA licence.

¹ Smith Williamson Report, Page 8

4 CONCLUSION

The Company continues to be loss making during the period under review, is cash constrained and heavily indebted. As such its financial condition continues to be poor. In fact we believe that the financial position of the Company has deteriorated since our May 2014 Report, further hampering its ability to meet its Section 83(5) obligations due to the losses incurred during 2013 and 2014.

In summary, the proposition being put forward in the Smith Williamson Report is that the granting of the licence will, in itself, restore MEHL to financial viability and allow the Company meet the Section 83(5) financial obligations. No substantive information, has been provided to support this assertion, nor on the Company's ability to raise the necessary finance. We question why the Company has not provided an independent valuation of its property and land, why it has not furnished a copy of its NAMA business plan and asset strategy as this would confirm the support of its financiers, and why no information such as a business plan, bank submission for finance or finance offer is provided to support on the view that finance would be available if a license were granted. Such information would provide a more evidenced basis for assessing the proposition in the Smith Williamson report.

On the basis of our May 2014 Report and the subsequent information provided to us we are unable to conclude that MEHL has evidenced its ability to meet the financial commitments or liabilities that can reasonably considered will be entered into by carrying on the activity to which the licence application relates.

Yours faithfully



Deloitte