



# Comhairle Contae Chill Mhantáin Wicklow County Council

## Forbairt Pleanála agus Comhshaol Planning Development and Environment

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Ms Tara Gillen  
Environmental Protection Agency  
P.O. Box 3000  
Johnstown Castle Estate  
Co. Wexford

29th May 2019

**Re: Representation submitted in response to proposed decision of the EPA under Reg. 7(5) of the Waste Management (Certification of Historic Unlicensed Waste Disposal and Recovery Activity) Regulations 2008 for landfills in Fassaroe, Bray, Co. Wicklow. Reference Numbers H0474-02, H0475-01, H0476-01 and H0477-02.**

Dear Ms Gillen

Further to the Draft Certificates of Authorisation, Reference Numbers H0474-02, H0475-01, H0476-01 and H0477-02, that were issued on the 1<sup>st</sup> May 2019, I write to submit a representation on behalf of Wicklow County Council to some of the conditions contained in the draft documents. The requested changes comprise:

Condition 3:

Condition 3.1 requires that the local authority completes a substantial programme of works as itemised in Condition 3.1 within 12 months of the date of grant of the Certificate of Authorisation. This list of works includes the installation of a 1m low permeability landfill cap with a 1mm low permeability geomembrane on each of the four landfills. Wicklow County Council does not believe that it can comply with this condition within the timeframe as it is currently specified. The Council's concerns with this are two-fold.

- (i) The Council does not believe that the programme of works can be completed within 12 months of the date of grant of the Certificate of Authorisation. This timeframe is insufficient to permit the required procurement of consultants to prepare the final detailed capping designs, the subsequent procurement of a contractor to undertake the capping works and the time required to execute the works. Wicklow County Council believes that a timeframe of 24 months from the starting date would be appropriate.



- (ii) The Council does not believe that the date of the grant of the Certificate of Authorisation is the appropriate starting date from which the required programme of works should be completed. The Council understands that approval may be required from An Bord Pleanála before the proposed capping and associated works can be undertaken. It is not possible to state how long exactly it would take to get the required approval from An Bord Pleanála. Thus specifying timeframes for the completion of the programme of works relative to the date of grant of the Certificate of Authorisation may not be appropriate.

As part of the application for the Certificates of Authorisation, consultants RPS submitted a screening for appropriate assessment and a natura impact statement. The EPA considered that it could not be excluded that the activity will have a significant effect on any European Site and accordingly determined that an Appropriate Assessment of the activity was required. The EPA completed the Appropriate Assessment in accordance with the Birds and Natural Habitats Regulations 2011 and has made certain that the activity will not adversely affect the integrity of any European Site and will not affect the preservation of these sites at favourable conservation status if the activity is carried out in accordance with the COA application and risk assessment, the certificate of authorisation and the conditions attached thereto.

Legal advice provided to Limerick City and County Council in 2018 indicates that the legislation is not clear-cut on whether Appropriate Assessment should be carried out (1) by An Bord Pleanála pursuant to section 177AE of the Planning and Development Act 2000 as amended; (2) by the EPA pursuant to regulation 42 of the Bird and Natural Habitats Regulations 2011. However, the advice indicates that where an Appropriate Assessment is required in respect of development to be carried out by a local authority, then the local authority must apply to An Bord Pleanála for approval.

Thus the Council requests that the wording in Condition 3.1 be amended to *"the local authority shall implement the following measures within 24 months of the date of grant of planning approval, or as otherwise agreed by the Agency"*

Condition 3.1(a). The Council is seeking 6 months rather than 4 months from the date of grant of the Certificates of Authorisation to complete the required 24 hour x 7 day landfill gas pumping trials on each of the four landfills. The increase in time is required to facilitate the procurement of a contractor and the execution of the pumping trials.

Condition 3.1(d) The Council request the words *"Unless otherwise agreed with the Agency"* preface this condition as these measures will be dependent on the outcome of the landfill gas pumping trial at each landfill.

Condition 3.2 In general the Council accepts this condition but it presumes that the baseline "status" of the surface water and groundwater against which any deterioration would be measured would be the results described in the Environmental Risk Assessment submitted with the COA applications.

Condition 3.3 Similar to the Condition 3.1, the Council is seeking the submission of the validation report "*within 30 months of the date of grant of planning approval, unless otherwise agreed with the Agency*".

Condition 3.5 This condition defines the required monitoring and reporting requirements for the landfills. The requirements are in-line with what the Council would expect for the landfills but would request that a site specific monitoring strategy be developed upfront and agreed with the Agency. For example, items where the Council would suggest changes include:

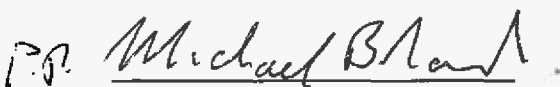
Condition 3.5(b) This requires the biannual monitoring of all leachate monitoring boreholes. There are currently 19 boreholes within the four landfills; 9 in Landfill 2, 5 in Landfill 3A, 2 in Landfill 3B and 3 in Landfill 3C. The Council request that the sampling be reduced to 12 boreholes; 5 in Landfill 2, 3 in Landfill 3A, 1 in Landfill 3B and 3 in Landfill 3C.

Condition 3.5(e) This condition requires the sampling of two boreholes downgradient of each of the landfills. There are currently no boreholes downgradient of Landfills 3A and 3C due to the steepness of the ground and the proximity of the woodlands within the Ballyman SAC. The Council suggest that this requirement be changed to downgradient locations to be agreed with the Agency.

Condition 3.15(d) This condition requires that the local authority publish on a quarterly basis the results of gas and water monitoring data. The Council seeks to have this changed to half-yearly basis to coincide with the biannual monitoring programmes required in Condition 3.5.

Please contact me if you require any additional information or clarification of any of the points in this representation.

Yours sincerely



Marc Devereux

Senior Engineer

Planning, Development & Environment