

 <p>Environmental Protection Agency An Ghníomhaireacht um Chaomhnú Comhshaoil</p>	<p><b>OFFICE OF ENVIRONMENTAL SUSTAINABILITY</b></p>
<b>ENVIRONMENTAL LICENSING PROGRAMME</b>	
<b>TO:</b>	Dr Eimear Cotter, Director
<b>FROM:</b>	Suzanne Wylde, Inspector, Environmental Licensing Programme
<b>DATE:</b>	26 August 2019
<b>RE:</b>	Technical Amendment of a Waste Licence Register Number: W0247-01, held by Behans Land Restoration Limited, Blackhall, Punchestown, Naas, Co. Kildare.

## 1. Background

Behans Land Restoration Limited was granted a licence, Reg. No. W0247-01, on 24<sup>th</sup> June 2009 for a facility located at Blackhall, Punchestown, Naas, Co. Kildare. The installation is licensed under Classes 4 and 13 of the Fourth Schedule of the Waste Management Act, 1996, as amended.

## 2. Technical Amendment request

The EPA received a request from the licensee for a technical amendment of the waste licence on 5<sup>th</sup> April 2019. The request relates to *Condition 6.14 Groundwater Management* of the licence.

	<b>Current Condition Wording</b>	<b>Suggested New Wording</b>
6.14.3	The infilling of low-lying areas of the facility below and immediately above the water table shall be undertaken using only clean, inert, highly permeable granular recycled aggregates of minimum 40mm class size. Such infilling works shall be supervised by an appropriately qualified person, and that person shall be present at all times during which infilling works are being undertaken.	The infilling of low-lying areas of the facility below and immediately above the water table shall be undertaken using only clean, inert, naturally occurring and previously undisturbed soil and stones from external source sites. Evidence of soil quality testing and confirmation of inert status shall be obtained in advance of its use for infilling of low lying areas. Records of advance testing and on-site compliance and verification testing shall be maintained on site and included in Annual E.

The primary change that the licensee wishes to have accommodated relates to the type of material required to be included for infilling of the low lying areas of the facility below and immediately above the water table. The licence currently requires the use of "*clean, inert, highly permeable granular recycled aggregates of minimum 40mm class size*". The licensee wishes to have this amended to allow the use of "*clean, inert, naturally occurring and previously undisturbed soil and stones from external source sites*".

The licensee states that they have recently “formed the view that it will not be possible to proceed with its original proposal to backfill the existing groundwater pond .....” using the type of material specified in the licence. The licensee has come to this view for the following reasons:

- (i) the continued delay in the publication by the Agency of End of Waste criteria in respect of recycled aggregate produced from construction and demolition (ie. concrete) waste;
- (ii) the absence of any definitive quantitative national or sectoral guidance on acceptable threshold limits to be applied in determining whether or not recycled aggregate produced from construction and demolition waste is ‘inert’ in accordance with the requirements of Condition 6.

### **3. Consultation with the Office of Environmental Enforcement (OEE)**

I have consulted with the OEE Team in relation to this technical amendment request. The OEE confirmed that the proposed technical amendment request cannot be accommodated under the existing licence.

The OEE has initiated legal proceedings against the licensee in respect of waste licence W0247-01. A summons for prosecution was issued by the District Court of Naas on 9<sup>th</sup> April 2019 to Behans Land Restoration Limited with four charges. Charge 3 of the summons relates to a breach of Condition 6.14.3 of the licence where the licensee did not place the infilled aggregate in the low-lying area to a level that was immediately above the water table. Charge 4 of the summons relates to the licensee not having submitted a specified engineering works report in advance of undertaking the infilling referred to in Condition 6.14.3.

### **4. Assessment**

The licensee refers to the delay in the publication of an end of waste criteria in respect of recycled aggregate produced from construction and demolition waste as one of the reasons why they believe they can no longer proceed with the original proposal reflected in Condition 6.14.3 of the licence. The EPA has an end-of-waste application on hand for recycled aggregate. This application is for a national decision regarding the aggregate and it is currently under assessment and awaiting further information from the applicants. The outcome of this decision should not affect the licensee's obligation to comply with their licence conditions which was issued, and the proposals contained in it agreed, before the end-of-waste application, referred to above, was submitted to the EPA for consideration.

The licensee also refers to the absence of any definitive national or sectoral guidance on acceptable threshold limits to be applied in determining whether or not recycled aggregate produced from construction and demolition waste is “inert” in accordance with the requirements of Condition 6.14.3. I understand that the licensee is referring to the draft guidance document “*Waste Acceptance Criteria and Development of Soil Trigger Values for Soil Recovery Facilities*” issued by the EPA in 2017. The public consultation process for the document raised concern in relation to the trigger levels for metals. The EPA is now engaged with the Geological Survey Ireland (GSI) to develop an approach for establishing ‘*Geochemically Appropriate Levels*’ for greenfield/non-greenfield soil and stone that may be accepted into soil recovery facilities. The guidance is expected to be published by the end of 2019.

The purpose of the use of clean, inert, highly permeable granular recycled aggregate of minimum 40mm class size is to ensure a protective layer over the groundwater before backfilling the groundwater ponds with soil and stones. The inspectors report for the licence

notes that this material was originally proposed due to its coarse granular (cobble and gravel) size, its high porosity and permeability and its ability to hold groundwater in the intergranular pore space. This material will facilitate the groundwater through and beneath the site rather than displacing it.

The licensee has not provided any supporting information to show that the "*clean, inert, naturally occurring and previously undisturbed soil and stones from external sources*" proposed in this technical amendment would provide an equivalent level of protection to the groundwater. While I acknowledge that the guidance currently being worked on by the EPA to establish '*Geochemically Appropriate Levels*' may be of assistance to the licensee in determining suitable material for the overall backfilling of the groundwater ponds, it does not alter the requirement that an engineer grade material is required by the licence to provide a protective layer for the groundwater under the clean soil and stones that will be the primary fill material used in the backfilling of the groundwater ponds.

## **5. Recommendation**

I recommend that the requested amendment to Condition 6.14.3 of the licence to use clean, inert, naturally occurring and previously undisturbed soil and stones from external sources for infilling low lying areas of the facility should be refused due to the absence of information to determine the engineering suitability of the material to ensure a protective layer for the groundwater below the soil and stones.

Signed,



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**Suzanne Wylde**

Inspector

Environmental Licensing Programme