

6.3 EIA - PROJECT THRESHOLD

Background

The attached Environmental Impact Assessment Report (EIAR) prepared by MKO for the Noel Lawler Sand and Gravel Limited soil recovery facility located at Portersize, Ballitore, Co. Kildare, provides full details of the activities proposed at the site which are relevant to Schedule 5 of the Planning and Development Regulations 2001, as amended. In particular, Chapter 1: Introduction provides details related to EIA Screening and project thresholds, and Chapter 2: Background to the Project, provides details related to National and Local planning and development regulations.

EIA Legislation and Development Threshold

EIA requirements derive from Directive 85/337/EEC (as amended by Directives 97/11/EC, 2003/35/EC and 2009/31/EC) and as codified and replaced by Directive 2011/92/EU of the European Parliament and the Council on the assessment of the effects of certain public and private projects on the environment and as amended in turn by Directive 2014/52/EU (the 'EIA Directive').

The obligations placed on Ireland under the EIA Directive have been transposed into Irish planning law by the Planning and Development Acts 2000 to 2019 and the Planning and Development Regulations 2001 to 2020. In particular, the amendments to the EIA Directive wrought by Directive 2014/52/EU were transposed into Irish law by the EU (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (Statutory Instrument [S.I.] No. 296/2018), which amended the 2000 Act and the 2001 Regulations. Most of the provisions of the 2018 Regulations came into operation on 1 September 2018, with the remainder coming into operation on 1 January 2019.

Section 172 of the 2000 Act (as amended) sets out the circumstances in which an EIA must be carried out. Section 172(1) provides that an EIA must be carried out by the competent authority where the application is for a class of development referred to in regulations under Section 176. The class of development is further specified in Part I and Part II of the First Schedule of S.I. No. 93/1999 - the EIA Regulations (Amendment), 1999.

Specific development types and project thresholds for mandatory EIA are set out in Parts 1 and 2 of Schedule 5 of the 2001 Regulations. Part 1 of Schedule 5 outlines 21 categories of large-scale industrial and infrastructure developments including chemicals manufacturing facilities, oil and gas facilities and hazardous waste treatment installations. Part 2 of Schedule 5 details further scales of developments subject to mandatory EIA by 13 industry types including agriculture, the extractive industry and infrastructure projects.

In relation to the proposed development (soil recovery facility) this is covered within Schedule 5 (Part 2) of the 2001 Regulations 2001. The relevant class of development in this case relates to:

'Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule'

as per Item 11(b) of the Schedule. The proposed development will accept greater than 25,000 tonnes of inert soil and stone per annum (up to a maximum of 100,000 tonnes), and therefore must be subject to EIA.