

 Environmental Protection Agency An Ghníomhaireacht um Chaomhú Comhshaoil	OFFICE OF ENVIRONMENTAL SUSTAINABILITY
ENVIRONMENTAL LICENSING PROGRAMME	
TO:	Each Director
FROM:	Eoin McCaffrey, Inspector, Environmental Licensing Programme
DATE:	6 December 2021
RE:	Technical Amendment to Industrial Emissions Licence Register Number: W0183-01, held by Starrus Eco Holdings Limited, Panda Waste Management Solutions, Ballymount Road Upper, Dublin 24 for an installation located at Millennium Business Park, Grange, Ballycoolin, Dublin 11.

The Agency received a request on 16/07/2021 from Starrus Eco Holdings Limited, Licence Reg. No. W0183-01 to technically amend its Licence. The request relates to a temporary increase in the overall maximum quantity of waste for acceptance at the installation until the end of 2021 (from 270,000 tonnes up to 320,000 tonnes).

This memo recommends that the change **cannot be** accommodated by a Technical Amendment, in accordance with Section 96(1)(c) of Environmental Protection Agency Act 1992 as amended.

1. Background

Greenstar Limited was granted a licence; Reg. No. W0183-01, on 15/04/2004 for an installation located at Millennium Business Park, Grange, Ballycoolin, Dublin 11. The installation is licenced under Class 11.4(b)(ii)¹ and 11.1² of the First Schedule to the EPA Act 1992 as amended.

This licence reg. no. W0183-01 was transferred to Starrus Eco Holdings Limited (hereafter referred to as Starrus Eco) on 04/03/2014.

The licence is for a non-hazardous waste materials recovery facility and involves the acceptance, recovery and disposal of waste (commercial, industrial, household and construction and demolition) with a maximum total tonnage of all waste types of 270,000 tonnes per annum.

Licence W0183-01 has been amended on four occasions with the latest Technical Amendment C (TA C) issued on the 04/03/2020 which allowed for the repurpose of a site building for the expansion of recycling capacity that did not result in an increase in the overall tonnage accepted.

¹ Recovery, or a mix of recovery and disposal, of non-hazardous waste with a capacity exceeding 75 tonnes per day involving one or more of the following waste activities, (other than activities to which Urban Waste Water Treatment Regulations 2001 (S.I. No. 254 of 2001) apply: (ii) Physio-Chemical Treatment.

² The recovery or disposal of waste in a facility, within the meaning of the Act of 1996, which facility is connected or associated with another activity specified in this Schedule in respect of which a licence or revised licence under Part IV is in force or in respect of which a licence under said Part is or will be required.

2. Technical Amendment request

On the 16/07/2021, the Agency received a request for a Technical Amendment (TA) of IE Licence Reg. No. W0183-01, in order to allow for a temporary increase in the maximum waste tonnage accepted at the installation until the end of 2021 from 270,000 tonnes to 320,000 tonnes per annum.

The proposed change is to '*Schedule A.1. Waste Acceptance*' of the existing licence. The increase would apply to the maximum annual waste quantity accepted for municipal waste and commercial & industrial wastes.

The licensee states in its TA screening assessment that there is a grant of planning permission by An Bord Pleanála and the change is requested pending determination of a licence review application. No confirmation of planning permission or confirmation of a valid licence review application for the installation was submitted in support of the TA request.

Starrus Eco submitted a cover letter for another current TA request (CR09001) for the Starrus Eco, Cappagh Road installation (W0261-02). This cover letter (dated 14/07/2021) provides clarity regarding the request for an increase in waste tonnage acceptance at both the Cappagh Road (W0261-02) and Millennium Business Park (W0183-01) installations and the planning status of both.

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

I have consulted with the OEE Inspector, Lisa Noone, in relation to this technical amendment request. The OEE confirmed that the proposed temporary increase in tonnage of waste for acceptance at the installation cannot be accommodated under the existing licence. OEE has confirmed that there are no legal proceedings in train in respect of this licence.

4. Assessment

The proposed amendment request was assessed against the relevant criteria in the Agency's guidelines for licence alterations³.

The licensee has requested a temporary increase (18.5%) in the annual waste acceptance limit at the installation until the end of 2021. Any increase in the maximum annual waste acceptance limit is considered a significant change and such a request would not normally be undertaken by TA based on the Agency's guidelines for licence alterations.

In the cover letter (dated 14/07/2021) submitted in support of the current technical amendment request for the Starrus Eco, Cappagh Road installation (W0261-02), it states that Starrus Eco are requesting a temporary increase in the overall waste tonnage acceptance at a number of its installations including the Millennium Business Park installation (W0183-01). This temporary increase is on the basis of a major fire in January 2021 affecting the Padraig Thornton Waste Disposal Limited installation (W0044-02) located on the Killeen Road, Dublin. Starrus Eco indicate they have subsequently increased their processing of waste at a number of its installations that would otherwise have been processed by the Padraig Thorntons Waste Disposal Ltd installation.

The cover letter clarifies that a planning retention application (Reg No. FW21A/0064) has been submitted to Fingal County Council by Starrus Eco with regard to the Millennium Business Park

³ Guidance on Requests for Alterations to a Licensed Industrial or Waste Activity (EPA, June 2019).

installation (W0183-01). The cover letter states that once this retention application is finalised a Strategic Infrastructure Determination (SID) application will be made to An Bord Pleanála (ABP) requesting an increase in waste tonnage acceptance at the Millennium Business Park installation from 270,000 tonnes to 450,000 tonnes per annum.

I have inspected in the Fingal County Council public register and as of 03/12/2021 planning retention application reg no. FW21A/006 is at a 'seek clarification of additional information' stage. I have inspected the ABP public register and as of 03/12/2021 no SID application has been made to ABP to date relating to the Millennium Business Park installation (W0183-01).

In summary:

This requested amendment is considered a 'significant' change under licence amendment guidelines and such a change would therefore warrant public participation which can only be considered by way of a licence review. Planning permission for the installation is for a maximum of 270,00 tonnes per annum and no confirmation of planning consent for an increase in waste tonnage acceptance at the Millennium Business Park installation (W0183-01) has been submitted to the Agency. There is no valid licence review application for W0183-01 under consideration by the Agency.

For an amendment to be accommodated by way of technical amendment it would need to satisfy Section 96(1) of the EPA Act 1992 as amended which states that "*The Agency may amend a licence or revised licence for the purposes of:*

- (a) correcting any clerical error therein,*
- (b) facilitating the doing of anything pursuant to a condition attached to the licence where the doing of that thing may reasonably be regarded as having been contemplated by the terms of the condition or the terms of the licence taken as a whole but which was not expressly provided for in the condition, or*
- (c) otherwise facilitating the operation of the licence and the making of the amendment does not result in the relevant requirements of section 83(5) ceasing to be satisfied."*

The amendment request to increase the acceptance of waste above the existing limit in the licence cannot be considered to be (a) correcting any clerical error or (b) facilitating the doing of anything pursuant to a condition attached to a licence where the doing of that thing may reasonably be regarded as having been contemplated by the terms of the condition or terms of the licence when taken as a whole.

It is also considered that the amendment cannot be accommodated by way of 96(1)(c). For an amendment to be accommodated under Section 96(1)(c) it must satisfy both criteria (i) *otherwise facilitating the operation of the licence* and (ii) *does not result in Section 83(5) failing to be satisfied*.

In relation to part (i) the significant increase in the waste acceptance limit cannot be interpreted as otherwise facilitating the operation of the licence as to allow such an increase would facilitate a breach of a condition on waste tonnage within the existing licence. In relation to part (ii) the licensee has failed to provide sufficient supporting information to demonstrate that Section 83(5) will continue to be satisfied.

It is therefore considered that the proposed amendment cannot be accommodated by way of a technical amendment and a licence review would be required in order to consider the proposed changes as requested.

5. Recommendation

This memo recommends that the requested change **cannot be** accommodated by a Technical Amendment of Licence W0183-01 (held by Starrus Eco Holdings Limited), in accordance with Section 96(1)(a), (b) or (c) of the EPA Act 1992 as amended.

Signed,



Eoin McCaffrey
Inspector
Environmental Licensing Programme