

 <p>Environmental Protection Agency An Ghníomhaireacht um Chaomhnú Comhshaoil</p>	<b>OFFICE OF ENVIRONMENTAL SUSTAINABILITY</b>
<b>ENVIRONMENTAL LICENSING PROGRAMME</b>	
TO:	Directors
FROM:	Eoin McCaffrey, Inspector, Environmental Licensing Programme
DATE:	06 December 2021
RE:	Technical Amendment to Industrial Emissions Licence Register Number: W0261-02, held by Starrus Eco Holdings Limited, Panda Waste Management Solutions, Ballymount Road Upper, Dublin 24 for an installation located at Cappagh Road, Cappogue, Finglas, Dublin 11

The Agency received a request on 16/07/2021 from Starrus Eco Holdings Limited, Licence Reg. No. W0261-02 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 250,000 tonnes up to 300,000 tonnes).

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

## 1. Background

Nurendale Limited trading as Panda Waste Services was granted a licence; Reg. No. W0261-01, on 31/08/2010 for an installation located at Cappagh Road, Cappogue, Finglas, Dublin 11. The installation is licenced under Class 11.4(b)(ii)<sup>1</sup> and Class 11.1<sup>2</sup> of the First Schedule to the EPA Act 1992 as amended.

A revised licence, Licence Reg. No. W0261-02 was issued to Nurendale Limited on 11/02/2015. This licence was transferred to Starrus Eco Holdings Limited (hereafter referred to as Starrus Eco) on 22/06/2018.

The licence is for the recovery, or a mix of recovery and disposal, of non-hazardous waste up to a limit of 250,000 tonnes per annum. The installation processes household residual waste and food waste, construction and demolition (C&D) waste, commercial and industrial (C&I) waste, and mixed dry recyclable waste including clean paper and cardboard (household and commercial).

Licensee Reg. No. W0261-02 was amended on two occasions for the purposes of amending the hours of operation in line with planning permission and to correct a clerical error.

<sup>1</sup> 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.

<sup>2</sup> 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. W0261-02, in order to allow for a temporary increase in the maximum waste tonnage accepted at the installation until the end of 2021 from 250,000 tonnes to 300,000 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.

The licensee submitted a cover letter in support of the application dated 14/07/2021. The cover letter provided clarification on the reason for the amendment request and the planning status of the installation.

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

I have consulted with the OEE Inspector, David Mullan, 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 alterations<sup>3</sup>.

The licensee has requested a temporary increase (20%) 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 Agency's guidelines for licence alterations.

The licensee in its cover letter dated 14/07/2021 identified that the Cappagh Road installation was accepting and processing an increased volume of waste that would otherwise have been processed at the Padraig Thornton Waste Disposal Limited installation on the Killeen Road, Dublin (W0044-02). The Padraig Thornton Waste Disposal Ltd installation (W0044-02) suffered a major fire on 09/01/2021 and waste processing activities have ceased at the site since.

The cover letter confirms that the company have made a Strategic Infrastructure Determination (SID) application to An Bord Pleanála (ABP) (Case Ref. PA06F.310332) on 21/05/2021. The application is to increase waste tonnage acceptance at the installation from 250,000 tonnes to 450,000 tonnes and includes an EIA Report (EIAR). I have inspected the ABP public register and as of 03/12/2021 no determination has been made with regard to this SID application, therefore planning for an increase in the acceptance of waste at the installation has not yet been granted.

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

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 250,000 tonnes per annum and no confirmation of planning consent for an increase in waste tonnage acceptance at the Cappagh Road installation (W0261-02) has been submitted to the Agency. A licence review application for the Cappagh Road installation (Reg. no. W0261-03) was received by the Agency on the 09/11/2021.

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 changes **cannot be** accommodated by a Technical Amendment of Licence W0261-02 (held by Starrus Eco Holdings Limited), in accordance with Section 96(1)(a), (b) or (c) of the EPA Act 1992 as amended.

Signed,

Handwritten signature of Eoin McCaffrey in blue ink.

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Eoin McCaffrey  
Inspector  
Environmental Licensing Programme