

 <p>Environmental Protection Agency An Ghníomhaireacht um Chaomhú Comhshaoil</p>	<b>OFFICE OF ENVIRONMENTAL SUSTAINABILITY</b>
<b>ENVIRONMENTAL LICENSING PROGRAMME</b>	
TO:	X, Director <<Admin to insert the Director's Name>>
FROM:	Daniel O'Neill, Inspector, Environmental Licensing Programme
DATE:	26 <sup>TH</sup> OCTOBER 2022
RE:	Technical Amendment to Industrial Emissions Licence Register Number: W0106-02, held by Bruscar Bhearna Teoranta, for an installation located at Carrowbrowne, Headford Road, County Galway.

The Agency received a request on 28/10/2021 from Bruscar Bhearna Teoranta, Licence Reg. No. W0106-02 to technically amend its Licence. The request relates to an increase of the licensed boundary of the installation.

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

## 1. Background

Bruscar Bhearna Teoranta was granted a licence, Reg. No. W0106-01, on 18/12/2000 for an installation located at Carrowbrowne, Headford Road, Galway. A revised licence, Licence Reg. No. W0106-02 was issued to Bruscar Bhearna Teoranta on 19/06/2003.

Licence Reg. No. W0106-02 was amended for the purposes of Section 82A(11) of the EPA Act 1992 as amended, on 16/12/2015. This amendment gives effect to the requirements of Directive 2010/75/EU (Industrial Emissions Directive). The installation is licenced under Class 11.4<sup>1</sup> & 11.1<sup>2</sup> of the First Schedule to the EPA Act.

Bruscar Bhearna Teoranta operate a non-hazardous waste transfer facility and are permitted to accept non-hazardous municipal, industrial, commercial and industrial, construction and demolition and organic wastes. The maximum quantity of waste to be accepted at this facility is limited to 166,000 tonnes per annum.

<sup>1</sup> 11.4 (b)(ii): 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 activities, (other than activities to which the Urban Waste Water Treatment Regulations 2001 (S.I. No. 254 of 2001) apply): pre-treatment of waste for incineration or co-incineration.

<sup>2</sup> 11.1: 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 the said Part is or will be required.

## **2. Technical Amendment Request**

On the 28/10/2021, the Agency received a request for a Technical Amendment of Licence Reg. No. W0106-02, in order to allow for the expansion of the existing site boundary.

The licensee proposes to expand the licensable activity area of the installation by increasing the site boundary. The licensee states this will incorporate an existing shed previously developed within the expanded area and include additional outside works needed to bring the site into compliance. The licensee has requested to relocate existing waste operations (likely but not confirmed as C&D waste processing to the expanded boundary area. The licensee states there will be no change to capacity limitations for waste acceptance as a result of the proposed amendment.

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

I have consulted with the OEE Inspector, Sean Bourke and Thomas Sexton, in relation to this technical amendment request. The OEE confirmed that the proposed boundary extension cannot be accommodated under the existing licence. OEE has confirmed that there are legal proceedings in train in respect of this licence with a first hearing date set for September 2022.

The OEE confirm the prosecution in train against the licensee is for a breach of Condition 1.2 (installation boundary) of the existing licence. The prosecution in train relates to the operation of the licensable activity outside of the licensable boundary area, the area of which is the subject of this technical amendment request.

## **4. Assessment**

A site plan submitted by the licensee illustrates the proposed boundary change and states that the current existing waste licence boundary area is 3.6928 Ha, with the proposed boundary extension to be 1.2101 Ha. This will result in a significant increase of approximately 33% to the overall licensable activity boundary of the installation.

The licensee in its request, did not provide an assessment of potential impacts from the proposed installation expansion with regard to air, odour, water, noise or stormwater management (including stormwater management drawings). The licensee did not provide confirmation of the licensable activity to be undertaken in the proposed expanded boundary and did not provide confirmation of planning permission to carry out the licensable activity with the proposed expanded boundary.

The amendment proposed is a significant extension of the licensable activity area bringing the installation in closer proximity to neighbouring sensitive receptors and which may have a significant negative effect on human health or the environment. Such a substantial extension of the licensable activity area can be only dealt with by way of a review of the licence in order to appropriately assess the likely impacts, provide for appropriate control and monitoring requirements and to provide for public participation.

### Section 96(1) of the EPA Act:

Section 96(1) of the EPA Act 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 expand the installation boundary 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 Section 96(1)(c). For an amendment to be accommodated under Section 96(1)(c) it must satisfy both criteria Part (i) otherwise facilitating the operation of the licence and Part (ii) does not result in Section 83(5) failing to be satisfied.

In relation to Part (i) the substantial extension to the licensable activity area cannot be interpreted as otherwise facilitating the operation of the licence as to allow such a substantial extension may result in a significant negative effect on human health or the environment. In relation to Part (ii) the licensee has failed to provide sufficient supporting information with regard to potential impacts from the proposed licensable activity area extension to air, noise, water or odour or stormwater discharges 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 W0106-02 (held by Bruscar Bhearna Teoranta), in accordance with Section 96(1)(a), (b) or (c) of the EPA Act 1992 as amended.

Signed,

  
Daniel O'Neill

Daniel O'Neill  
Inspector  
Environmental Licensing Programme