 <p>Environmental Protection Agency An Ghníomhaireacht um Chaomhnú Comhshaoil</p>	OFFICE OF ENVIRONMENTAL SUSTAINABILITY
ENVIRONMENTAL LICENSING PROGRAMME	
TO:	Gerard O'Leary
FROM:	Guy Price, Inspector, Environmental Licensing Programme
DATE:	5 May 2023
RE:	Technical Amendment to Industrial Emissions Licence Register Number: W0078-03, held by Tipperary County Council, for an installation located at Ballaghveny Landfill, Ballymackey, County Tipperary.

The Agency received a request on 10 June 2022 from Tipperary County Council, Licence Reg. No. W0078-03 to technically amend its Licence. The request relates to a revision of the site boundary to remove three areas of land.

This memo recommends that the change may be accommodated by a Technical Amendment, in accordance with Section 96(1)(c) of Environmental Protection Agency Act 1992 as amended (hereafter referred to as the EPA Act).

1. Background

Tipperary County Council was granted a Licence, Reg. No. W0078-01, on 4 May 2001 to operate a waste licence located at Ballaghveny Landfill, Ballymackey, County Tipperary.

The licence has been revised twice, Reg. No. W0078-02 was issued to Tipperary County Council on 15 June 2006 and Reg No. W0078-03 issued on the 21 December 2009.

The installation is licenced under Classes 11.5¹ & 11.1² of the First Schedule to the EPA Act.

Licence Reg. No. W0078-03 has been amended on five occasions. The latest Technical Amendment, D (issued on 26 June 2020), amended wording Condition 6.2.2 (regarding leachate management). Two separate amendments requests were refused, a request for an alteration to Condition 6.2.2 (received prior to Technical Amendment D) and a request to increase the annual waste acceptance limitation in the existing licence.

The installation authorises Tipperary County Council to operate a non-hazardous landfill at a throughput of up to 49,000 tonnes per annum of municipal waste, commercial waste, construction and demolition waste, pre-treated sludge, and green waste for composting.

¹ Landfills, within the meaning of Section 5 (amended by Regulation 11(1) of the Waste Management (Certification of Historic Unlicensed Waste Disposal and Recovery Activity) Regulations 2008 (S.I. No. 524 of 2008)) of the Act of 1996, receiving more than 10 tonnes of waste per day or with a total capacity exceeding 25,000 tonnes, other than landfills of inert waste.

² The recovery or disposal of waste in an installation, within the meaning of the Act of 1996, which installation 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.

Waste acceptance at the installation ceased in February 2011 and resumed on the 2 April 2019 with approval of the Office of Environmental Enforcement (OEE).

2. Technical Amendment Request

On the 10 June 2022, the Agency received a request for a Technical Amendment of Licence Reg. No. W0078-03, to allow for a change in the licence boundary to reduce the licensed area of the installation.

The licensee proposes to remove three areas of land from the licensed boundary. This proposed reduction to the licensed area has been made as the licensee intends to sell the parcels of land and the licensable activity has never extended to the areas of land to be removed and there is no intent to operate on these areas of land. The licensee has submitted a map showing the areas of land to be removed (Appendix 1). The licensee has submitted a map showing the proposed new installation boundary (Appendix 2) for inclusion in the licence.

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

I have consulted with the OEE Inspector, Anthea Southey, in relation to this technical amendment request. The OEE confirmed that the proposed site boundary alteration cannot be accommodated under the existing licence. OEE have confirmed that an exit audit of the subject lands was carried out on the 23 September 2022 (Site Visit Ref. No. SV26014). The 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 guidance for licence requirements³.

The licensee is proposing the removal of three areas of land situated along the northern boundary of the installation (as shown in Appendix 1). The licensee confirms that the land has not been used for the disposal or recovery of waste or for the operational processes of the landfill. There are no emissions to the land from the waste activities at the installation.

On the 23 September 2022, the OEE completed an exit audit at the site (Site Visit Ref. No. SV26014) for the purpose of inspecting the areas of land proposed for removal from the site boundary. The outcome of the exit audit was confirmation that the land was not subject to the licensable activities authorised by the EPA licence. The enforcement inspector determined that the land is not causing, or likely to cause, environmental pollution.

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

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

- (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”.

It is considered that the proposed amendment request may be accommodated under Section 96(1)(c). To amend the licence under this criterion, two parts need to be satisfied, Part (i) otherwise facilitating the operation of the licence and Part (ii) does not result in the relevant requirements of Section 83(5) ceasing to be satisfied. The change proposed, a decrease in the licensed area of the installation, is considered as otherwise facilitating the operation of the Licence. There are no emissions or activities associated with the lands requested to be removed and therefore the proposed change will not result in the relevant requirements of Section 83(5) ceasing to be satisfied.

Based on the above assessment, it is recommended that the changes to the licence to accommodate a reduction of the licensed boundary be accommodated by Technical Amendment. It is considered that the proposed revisions are in accordance with Agency guidelines for licence amendments³ and that the proposed alteration of the licensed site boundary (amended site boundary as shown in Appendix 2) will not have an impact on the emissions or environmental risk at the installation. The proposed amendment will satisfy the criteria under Section 96(1)(c) of the EPA Act allowing the Agency to amend a licence or revised licence.

The recommended amendment (RA) provides for the boundary decrease. The specific changes relate to the following condition of the licence:

Condition 1.4 – installation boundary.

5. Appropriate Assessment

Appendix 3 lists the European Sites assessed, their associated qualifying interests and conservation objectives.

A screening for Appropriate Assessment was undertaken to assess, in view of best scientific knowledge and the conservation objectives of the site, if the activities, individually or in combination with other plans or projects are likely to have a significant effect on any European Site. In this context, particular attention was paid to the European Sites at Scohaboy (Sopwell) Bog SAC (Site code 002206), Kilduff, Devilsbit Mountain SAC (Site code 000934), Sharavogue Bog SAC (Site code 000585), Slievefelim to Silvermines Mountains SPA (Site code 004165), and Lough Derg, North-east Shore SAC (Site code 002241).

The activities are not directly connected with or necessary to the management of any European Site and the Agency considered, for the reasons set out below, that it can be excluded, on the basis of objective information, that the activities, individually or in combination with other plans or projects, will not have a significant effect on any European Site and accordingly determined that an Appropriate Assessment of the activities was not required. The reasons for this determination are:

- The installation is not located within any European site.
- The technical amendment relates to a reduction in the licensed boundary only. There are no changes to the nature or extent of the operations and emissions at the installation from what was considered during the assessment conducted for Licence Reg. No. W0078-03.

6. Recommendation

This memo recommends that the requested changes be accommodated by a Technical Amendment of Licence W0078-03 (held by Tipperary County Council), in accordance with Section 96(1)(c) of the EPA Act 1992 as amended.

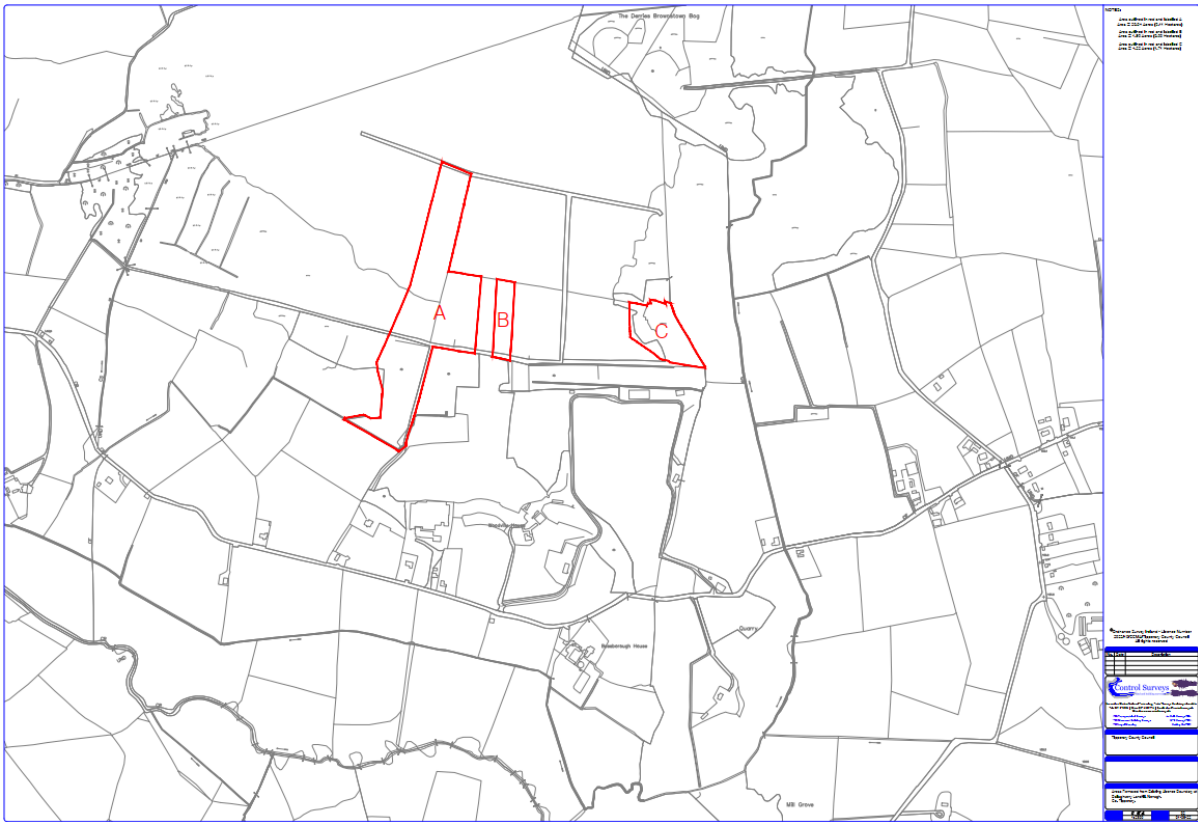
I recommend that the licence amendment be approved as set out in the attached recommended Technical Amendment. The making of the amendment will not result in the relevant requirements of Section 83(5) of the EPA Act 1992 as amended, ceasing to be satisfied.

Signed,

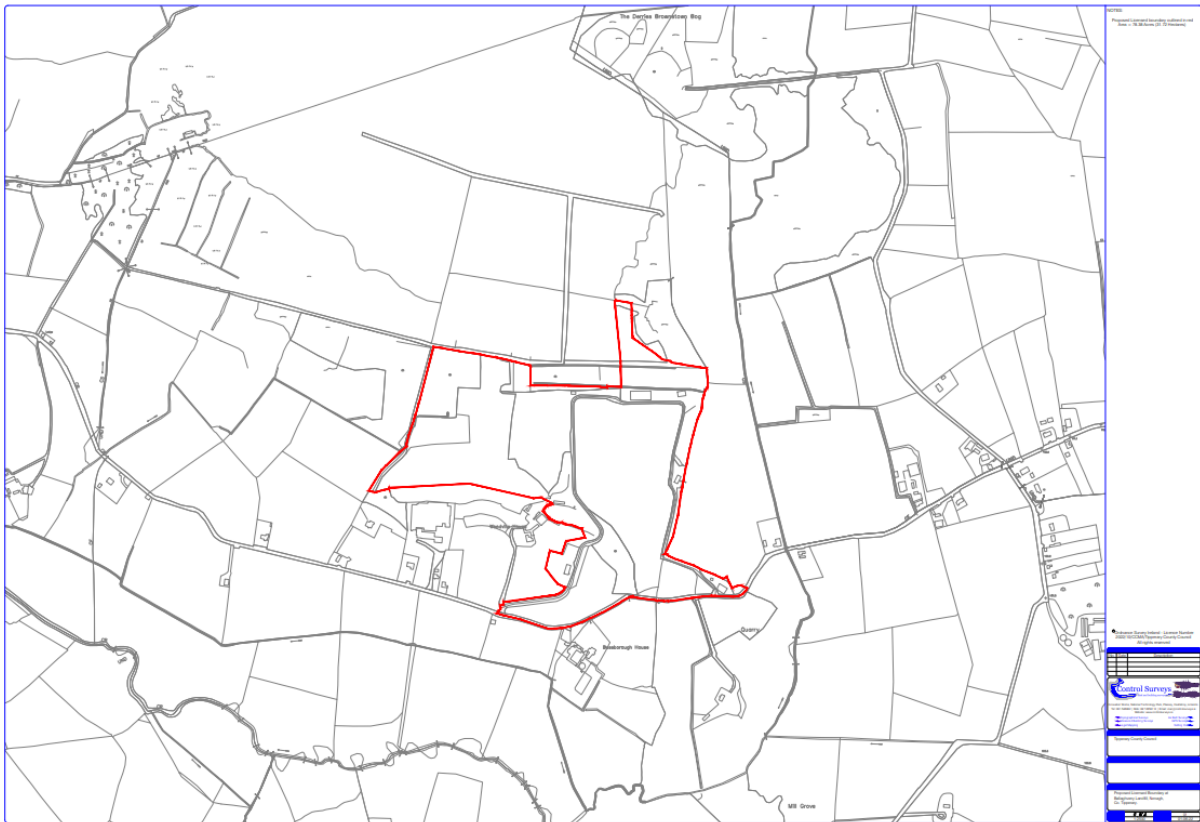


Guy Price
Inspector
Environmental Licensing Programme

Appendix 1: Areas of land (marked A, B, and C) proposed to be removed from the existing boundary.



Appendix 2: Proposed amended licensed boundary of W0078-03 outlined in red.



Appendix 3: List of European Sites assessed, their associated qualifying interests and conservation objectives.

	European Site (Site Code)	Distance/Direction from Installation	Qualifying Interests (* denotes a priority habitat)	Conservation Objectives
1	Scohaboy (Sopwell) Bog SAC (002206)	9.5km north of the installation.	Habitats 7120 Degraded raised bogs still capable of natural regeneration	NPWS (2022) Conservation objectives for Scohaboy (Sopwell) Bog SAC [002206]. First Order Site-specific Conservation Objectives Version 1.0. Department of Housing, Local Government and Heritage (12/10/2022).
2	Kilduff, Devilsbit Mountain SAC (000934)	11.2km south-east of the installation.	Habitats 4030 European dry heaths 6230 Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) *	NPWS (2018) Conservation Objectives: Kilduff, Devilsbit Mountain SAC 000934. Version 1. National Parks and Wildlife Service, Department of Culture, Heritage and the Gaeltacht (05/07/2018).
3	Sharavogue Bog SAC (000585)	13.1km north-east of the installation.	Habitats 7110 Active raised bogs* 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the Rhynchosporion	NPWS (2015) Conservation Objectives: Sharavogue Bog SAC 000585. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht (02/11/2015).
4	Slievefelim to Silvermines Mountains SPA (004165)	13.7km south-west of the installation.	Birds A082 Hen Harrier (<i>Circus cyaneus</i>)	NPWS (2022) Conservation Objectives: Slievefelim to Silvermines Mountains SPA 004165. Version 1. National Parks and Wildlife Service, Department of Housing, Local Government and Heritage (23/09/2022).
5	Lough Derg, North-east Shore SAC (002241)	14.8km north-east of the installation.	Habitats 5130 Juniperus communis formations on heaths or calcareous grasslands 7210 Calcareous fens with Cladium mariscus and species of the Caricion davallianae* 7230 Alkaline fens	NPWS (2019) Conservation Objectives: Lough Derg, North-east Shore SAC 002241. Version 1. National Parks and Wildlife Service, Department of Culture, Heritage and the Gaeltacht (24/04/2019).

			8240 Limestone pavements* 91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) * 91J0 <i>Taxus baccata</i> woods of the British Isles*	
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