

*This Report has been cleared for submission to the Director by Senior Inspector,
Niamh O'Donoghue*



Signed:

Date: 13/07/2023



**OFFICE OF
ENVIRONMENTAL
SUSTAINABILITY**

**ADDENDUM TO THE INSPECTOR'S REPORT ON
LICENCE APPLICATION P1148-01**

TO:	MICHEAL LEHANE, DIRECTOR	
FROM:	Linda Cahill	Environmental Licensing Programme
DATE:	13 July 2023	
RE:	Application for an Industrial Emissions Licence, licence register number P1148-01 - Addendum to the Inspector's Report submitted to Director on 09 June 2023.	
Applicant:	M.A.G. World Limited	
CRO number:	413375	
Location/address:	Lisgar and Corglass, Bailieboro, County Cavan.	
Application date:	12 March 2021	

A Recommended Determination (RD) and Inspector's Report (IR) were submitted to Director on 09 June 2023. Since the Director's consideration of the IR and RD, one third-party submission on the application was received as detailed in this report. This addendum report should be read in conjunction with the original Inspector's Report dated 09 June 2023.

Submissions received

The main issues raised in the submission received is summarised below, however the original submission should be referred to for greater detail and expansion of particular points.

Addendum to Table 13.1 Submissions of IR Report

Submissions			
1.	<p>Name & Position</p> <p>Mr. Peter Sweetman</p>	<p>Organisation:</p> <p>Peter Sweetman and on behalf of Wild Ireland Defence CLG</p>	<p>Date received:</p> <p>15 June 2023</p>
	<p>Issues raised:</p> <p><i>The submission:</i></p> <ul style="list-style-type: none"> • <i>States that the EPA must assess the disposal of the waste from these developments;</i> • <i>States that the threshold for Appropriate Assessment is set out in Kelly -v- An Bord Pleanála [2014] IEHC 400 (25 July 2014);</i> • <i>References four CJEU judgements in the context of Article 6 of the Habitats Directive, specifically C-323/17, C-258/11, C-293/17 and C-294/17.</i> 		
	<p>Agency response:</p> <p>The submitter's reference to "these developments" refers to pig and poultry industrial emissions licence applications.</p> <p>I am satisfied that I have sufficient information available to complete an Appropriate Assessment Screening, in an appropriate manner, to assess in view of best scientific knowledge and the conservation objectives of the site, if the project individually or in combination with other plans or projects is likely to have a significant effect on a Natura 2000 Site.</p> <p>The Appropriate Assessment section of the original Inspector's report dated 09 June 2023 details the results of the appropriate assessment screening conducted as part of the licence application. The licensee has provided sufficient information regarding the wastes produced by the activities, as well as their disposal off-site. More information on waste can be found in the waste section of Inspector's Report.</p> <p>The submitter quotes Case C-323/17 where the court noted that "<i>in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site</i>".</p> <p>I am satisfied that the screening conducted as part of this application to determine whether or not an Appropriate Assessment was required was consistent with case C-323/17 and did not take into account measures that would mitigate any potential impacts on Natura 2000 sites.</p> <p>The submitter quotes Kelly -v- An Bord Pleanála [2014] IEHC 400 which references CJEU case C-258/11 where the court noted that in order for a regulatory body such as the Agency to grant approval "<i>it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned</i>".</p>		

Submissions

The Appropriate Assessment section of the Inspector's Report details the results of the appropriate assessment screening conducted as part of the licence application assessment. The applicant has provided sufficient information regarding the wastes produced by the activity, as well as their disposal off-site. More information on waste can be found in the waste section of original Inspector's Report.

The submitter quotes cases C-293/17 and C-294/17 where the court ruled "*Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that the grazing of cattle and the application of fertilisers on the surface of land or below its surface in the vicinity of Natura 2000 sites may be classified as a 'project' within the meaning of that provision, even if those activities, in so far as they are not a physical intervention in the natural surroundings, do not constitute a 'project' within the meaning of Article 1(2)(a) of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.*"

Organic fertiliser is something which may be distributed to farmers for use on their farms, but that ultimate use does not form part of the project in respect of which the Agency considers a licence application. Ultimately, the location on which landspreading of organic fertiliser from the installation may occur, can vary across and within any given year.

The spreading of organic fertiliser on farms is regulated by the European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2022 (S.I. 113 of 2022) which gives effect to the 5th Nitrates Action Programme (2022 to 2025), published in accordance with the Nitrates Directive.

I am satisfied that the appropriate assessment screening conducted as part of this application is considered in compliance with the rulings of the Courts of Justice of the European Union judgement for cases C-293/17 and C-294/17.

Environmental Impact Assessment Directive – Reasoned Conclusion Update

I have reviewed the assessment in the Inspector's Report and, taking into account the observations raised in the submission, and the contents of this addendum report, I consider that the potential significant direct and indirect effects of the activity have been identified, described and assessed in an appropriate manner as respects the matters that come within the functions of the Agency.

I consider that the monitoring, mitigation and preventative measures proposed in the IR, will enable the activity to operate without causing environmental pollution, subject to compliance with the licence conditions included in the RD.

Appropriate Assessment – Addendum Report Review

I have reviewed the Appropriate Assessment Screening in the IR and, taking into account the observations raised in the submission, and the content of this addendum report, I am satisfied that the IR provides an adequate examination and evaluation of the effects of the activity on the European Sites concerned, Killyconny Bog (Cloghbally) SAC (Site Code: 000006), River Boyne and River Blackwater SAC (Site Code: 002299), and River Boyne and River Blackwater SPA (Site Code: 004232), in light of their conservation objectives.

Signed



Linda Cahill, ELP Inspector