

 <p><b>epa</b> Environmental Protection Agency <i>An Ghníomhaireacht um Chaomnú Comhshaoil</i></p>	<b>OFFICE OF ENVIRONMENTAL SUSTAINABILITY</b>
<b>ENVIRONMENTAL LICENSING PROGRAMME</b>	
<b>TO:</b>	Eimear Cotter, Director
<b>FROM:</b>	Marie Fay, Inspector, Environmental Licensing Programme
<b>DATE:</b>	06 DECEMBER 2023
<b>RE:</b>	Technical Amendment to Waste Licence Register Number: W0254-01, held by Walshestown Restoration Limited, for a facility located at Walshestown, Blackhall, Tipperkevin & Bawnoge, Naas, County Kildare.

The Agency received a request on 04/04/2023 from Walshestown Restoration Limited, Licence Reg. No. W0254-01 to technically amend its Licence. The request relates to the reduction of the site boundary.

This memo recommends that the change may be accommodated by a Technical Amendment, in accordance with Section 42B(1)(c) of Waste Management Act 1996 as amended.

## 1. Background

Cemex (ROI) Limited was granted a licence, Reg. No. W0254-01, on 23/10/2013 for a facility located at Walshestown, Blackhall, Tipperkevin & Bawnoge, Naas, County Kildare. The Licence was transferred from Cemex (ROI) Limited, CRO No. 79451, to Walshestown Restoration Limited, CRO No. 564315, on 08/12/2015.

Licence Reg. No. W0254-01 was amended on 27/05/2020 to include a table of acceptable pollutant limits for inert waste. The duration of the licence was extended on 06/10/2016, in accordance with Section 49(2)(b) of the Waste Management Act 1996 as amended, until 23/04/2017.

The facility is licenced under Classes 1 (main activity)<sup>1</sup>, 5 and 15 of the Third Schedule (Waste Disposal Activities) and 3, 4, 5 and 13 of the Fourth Schedule (Waste Recovery Activities) of the Waste Management Acts 1996 as amended. See Appendix 4 for full details.

The facility is licenced as an inert landfill and construction and demolition waste recovery facility on a site which is a worked-out sand and gravel pit. The excavation works on this site have been taking place since the late 1960's/early 1970's. The area to be removed from the licensed boundary was filled using existing overburden materials on the site. Since this reinstatement was undertaken, the lands in question have been in use for grazing livestock. All restoration works were completed by the applicant.

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<sup>1</sup> Deposit into or on to land (e.g.including landfill, etc.)

## **2. Technical Amendment Request**

On the 04/04/2023, the Agency received a request for a Technical Amendment of Licence Reg. No. W0254-01, in order to allow for a reduction in the site boundary. The licensee provided information stating that the area to be surrendered is 23ha that was restored to agricultural use following the cessation of the quarrying activities. This area was reinstated using site sourced natural overburden only and no imported inert waste material was placed within the proposed site boundary reduction area.

In support of the amendment application, the licensee submitted the OEE exit audit (site visit report No. SV27565), an Appropriate Assessment Screening Report and an existing site boundary map, Drawing No. P22-035-0100-0001 dated May 22 (Appendix 1). A new site boundary map, Drawing No. P22-035-0100-0002 dated 20/10/2023 (Appendix 2) was also submitted to the Agency in support of the application.

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

I have consulted with the OEE Inspector, Ciaran Cuddihy, in relation to this technical amendment request. The OEE confirmed that the proposed reduction in boundary cannot be accommodated under the existing licence. OEE have confirmed that an exit audit of the subject lands was carried out on 22/02/2023 (Site Visit Ref; SV27565). The OEE has confirmed that there are no legal proceedings in train in respect of this licence.

It is noted by the OEE that a number of monitoring points are located within the area to be removed from the licensed boundary. The OEE have confirmed that they will address the relocation of these monitoring points in conjunction with the Licensee and this can be carried out in accordance with Schedule C in the current licence.

## **4. Assessment**

On 22/02/2023 the OEE carried out a site visit (No. SV27565) in order to complete an exit audit of the facility for the purpose of inspecting the area proposed for removal from the site boundary, the subject of this amendment request. The OEE inspector noted that the proposed area to be removed from the licence boundary is currently being used for agriculture (sheep farming) and that planning permission is in place to extend the adjacent racecourse into the land in question.

The areas of land requested to be removed from within the licensed boundary were found by OEE to be in a satisfactory condition and there was no evidence to suggest that any licensed activity had been carried out in that area. It is therefore considered that the reduction of the boundary as requested would be acceptable from an environmental perspective.

### Section 42B(1) of the Waste Management Act:

Section 42B(1) of the Waste Management Act states that

“The Agency may amend a waste licence for the purpose of -

- (a) correcting any clerical error therein,
- (b) facilitating the doing of any thing 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

- (bb) facilitating compliance by the holder of a licence with technical requirements that may be established, or amended, arising from the introduction of new Community acts or amendments to existing Community acts, or
- (c) otherwise facilitating the operation of the licence and the making of the amendment does not result in the relevant requirements of section 40(4) ceasing to be satisfied.”

It is considered that the proposed amendment request may be accommodated under Section 42B(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 40(4) ceasing to be satisfied. The changes proposed to reduce the licensed boundary area is considered as otherwise facilitating the operation of the Licence. There are no emission points associated with the lands and no soil or groundwater contamination issues and so the reduction in the licensed boundary area will not result in the relevant requirements of Section 40(4) ceasing to be satisfied.

Based on the above assessment, it is recommended that the changes to the licence to accommodate the reduction in the site boundary be accommodated by Technical Amendment. It is considered that the proposed revisions are in accordance with Agency guidelines for licence amendments<sup>2</sup>. The proposed amendments will satisfy the criteria under Section 42B(1)(c) of the Waste Management Act 1996 as amended allowing the Agency to amend a licence or revised licence.

The recommended amendment (RA) includes the following specific changes to the licence:

- Condition 1. Scope, 1.3 – site 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 as outlined in Appendix 3.

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 have a significant effect on any European Site and accordingly determined that an Appropriate Assessment of the activities was not required.

The determination is based on the following reasons:

- The facility is not located within any European site;
- The technical amendment relates to a reduction in the licensed boundary only; and
- There are no changes to the nature or extent of the operations and emissions at the facility from what were considered during the assessment conducted for License Reg. no. W0254-01.

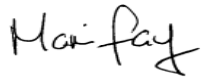
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<sup>2</sup> Guidance for Licensee on Request for Alterations to a Licensed Industrial or Waste Activity (EPA, June 2019).

## **6. Recommendation**

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 40(4) of the Waste Management Act 1996 as amended, ceasing to be satisfied.

Signed,



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Marie Fay  
Inspector  
Environmental Licensing Programme

**Appendix 1 – Existing Site Boundary including area in blue to be removed**



**SITE PLAN**  
Scale 1:5000

If Applicable - Ordnance Survey Ireland License No. EY9L30222878 © Ordnance Survey Ireland and Government of Ireland

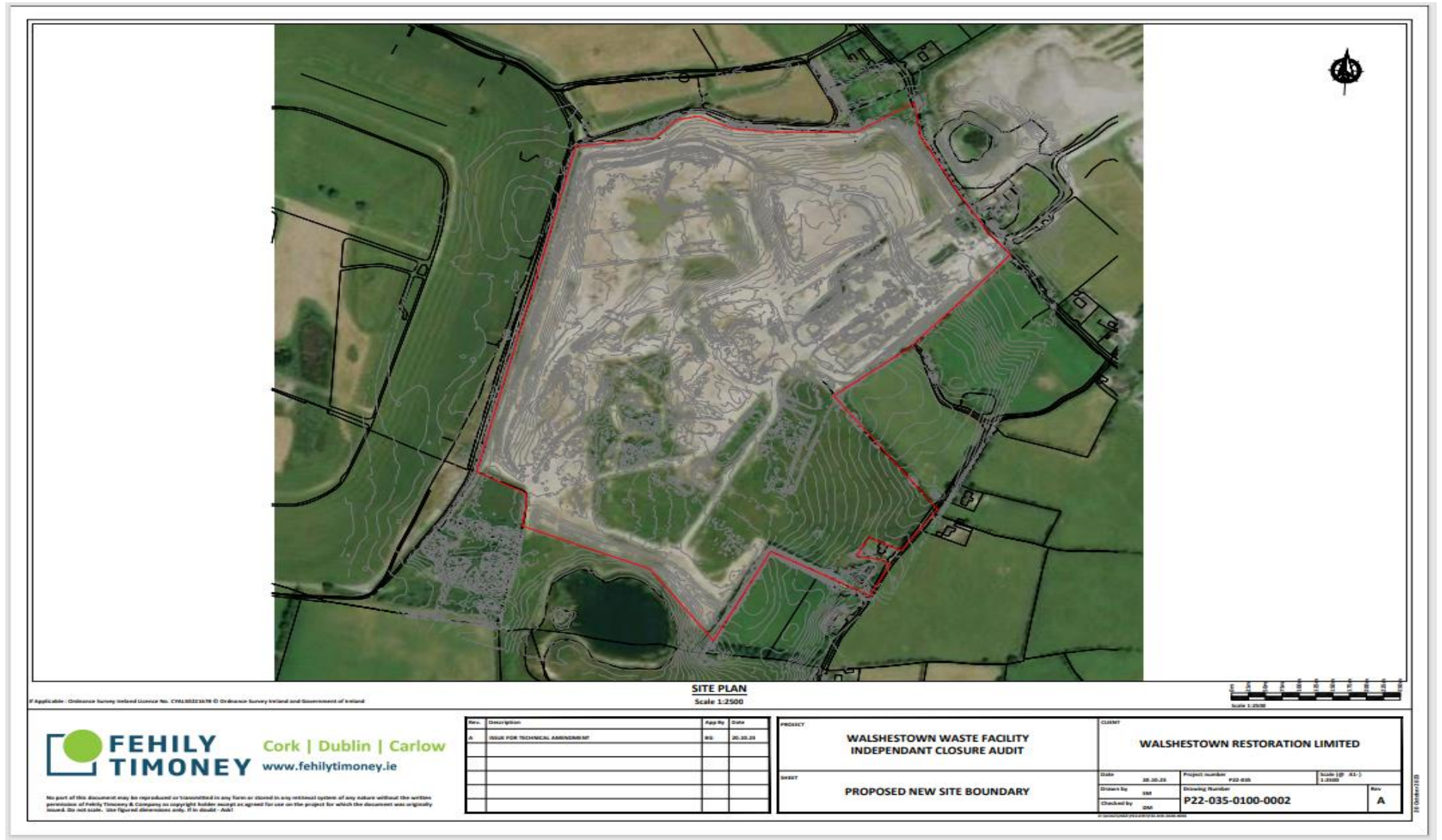
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Rev.	Description	App By	Date
A	ISSUE FOR DISCUSSION	TD	06.06.22

<b>PROJECT</b>	<b>WALSHESTOWN WASTE FACILITY INDEPENDANT CLOSURE AUDIT</b>			<b>CLIENT</b>	<b>WALSHESTOWN RESTORATION LIMITED</b>
<b>DATE</b>	MAY '22	<b>PROJECT NUMBER</b>	P22-035	<b>SCALE (IF A1-1)</b>	1:5000
<b>DRAWN BY</b>	SPB	<b>DRAWING NUMBER</b>	<b>P22-035-0100-0001</b>		<b>REV</b>
<b>CHECKED BY</b>					<b>A</b>
<b>SITE LOCATION PLAN</b>					

**Appendix 2 – Proposed New Site Boundary in red with area of land now removed**



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

	<b>European Site (Site Code)</b>	<b>Distance/Direction from Facility</b>	<b>Qualifying Interests</b>  (* denotes a priority habitat)	<b>Conservation Objectives</b>
1	Red Bog, Kildare SAC (000397)	4.6 km northeast of the facility	<b>Habitats:</b> 7140 Transition mires and quaking bogs	As per NPWS (2019) Conservation Objectives for Red Bog, Kildare SAC (000397). Version 1. National Parks and Wildlife Service, Department of Culture, Heritage & the Gaeltacht (dated 17/07/2019).
2	Poulaphouca Reservoir SPA (004063)	4.3 km southeast of the facility	<b>Species:</b> A043 Greylag Goose <i>Anser anser</i> A183 Lesser Black-backed Gull <i>Larus fuscus</i>	As per NPWS (2022) Conservation Objectives for Poulaphouca Reservoir SPA (004063). First Order Site-specific Conservation Objectives Version 1.0. Department of Housing, Local Government and Heritage (dated 12/10/2022).
3	Wicklow Mountains SAC (002122)	8km southeast of the facility	<b>Habitats:</b> 3110 Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) 3130 Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea 3160 Natural dystrophic lakes and ponds 4010 Northern Atlantic wet heaths with <i>Erica tetralix</i> 4030 European dry heaths 4060 Alpine and Boreal heaths 6130 Calaminarian grasslands of the Violetalia calaminariae 6230 Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) * 7130 Blanket bogs (* if active bog) 8110 Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) 8210 Calcareous rocky slopes with chasmophytic vegetation	As per NPWS (2017) Conservation Objectives for Wicklow Mountains SAC (002122). Version 1. National Parks and Wildlife Service, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs (dated 31/07/2017)

			8220 Siliceous rocky slopes with chasmophytic vegetation 91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles <b>Species:</b> 1355 Otter <i>Lutra lutra</i>	
4	Wicklow Mountains SPA (004040)	11km southeast of the facility	<b>Species</b> A098 Merlin <i>Falco columbarius</i> A103 Peregrine <i>Falco peregrinus</i>	As per NPWS (2022) Conservation Objectives for Wicklow Mountains SPA (004040). First Order Site-specific Conservation Objectives Version 1.0. Department of Housing, Local Government and Heritage (dated 12/10/2022).
5	Mouds Bog SAC (002331)	12km northwest of the facility	<b>Habitats:</b> 7110 Active raised bogs 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the Rhynchosporion	As per NPWS (2015) Conservation Objectives for Mouds Bog SAC (002331). Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht (dated 20/11/2015)
6	Pollardstown Fen SAC (000396)	14.5km west of the facility	<b>Habitats:</b> 7210 Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> * 7220 Petrifying springs with tufa formation ( <i>Cratoneurion</i> )* 7230 Alkaline fens <b>Species:</b> 1013 Geyer's Whorl Snail <i>Vertigo geyeri</i> 1014 Narrow-mouthed Whorl Snail <i>Vertigo angustior</i> 1016 Desmoulin's Whorl Snail <i>Vertigo moulinsiana</i>	AS per NPWS (2022) Conservation Objectives for Pollardstown Fen SAC (000396). Version 1. National Parks and Wildlife Service, Department of Housing, Local Government and Heritage (dated 14/01/2022)
7	Ballynafagh Lake SAC (001387)	14.9km northwest of the facility	<b>Habitats:</b> 7230 Alkaline fens <b>Species:</b> 1016 Desmoulin's Whorl Snail <i>Vertigo moulinsiana</i> 1065 Marsh Fritillary <i>Euphydryas aurinia</i>	As per NPWS (2021) Conservation Objectives for Ballynafagh Lake SAC (001387). Version 1. National Parks and Wildlife Service, Department of Housing, Local Government and Heritage (dated 10/12/2021)
8	Ballynafagh Bog SAC (000391)	15.5km northwest of the facility	<b>Habitats:</b> 7110 Active raised bogs* 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the Rhynchosporion	As per NPWS (2015) Conservation Objectives for Ballynafagh Bog SAC (000391). Version 1. National Parks and Wildlife Service, Department of



				Arts, Heritage and the Gaeltacht (dated 10/11/2015)
9	South Dublin Bay and River Tolka Estuary SPA (004024)	Approx 45km downstream of the facility	<p><b>Habitats:</b> A999 Wetlands</p> <p><b>Species:</b> A046 Light-bellied Brent Goose <i>Branta bernicla hrota</i> A130 Oystercatcher <i>Haematopus ostralegus</i> A137 Ringed Plover <i>Charadrius hiaticula</i> A141 Grey Plover <i>Pluvialis squatarola</i> A143 Knot <i>Calidris canutus</i> A144 Sanderling <i>Calidris alba</i> A149 Dunlin <i>Calidris alpina alpina</i> A157 Bar-tailed Godwit <i>Limosa lapponica</i> A162 Redshank <i>Tringa totanus</i> A179 Black-headed Gull <i>Chroicocephalus ridibundus</i> A192 Roseate Tern <i>Sterna dougallii</i> A193 Common Tern <i>Sterna hirundo</i> A194 Arctic Tern <i>Sterna paradisaea</i></p>	As per NPWS (2015) Conservation objectives for South Dublin Bay and River Tolka Estuary SPA (004024). Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht (dated 09/03/2015).
10	South Dublin Bay SAC (000210)	Approx 45km downstream of the facility	<p><b>Habitats:</b> 1140 Mudflats and sandflats not covered by seawater at low tide</p>	As per NPWS (2013) Conservation Objectives for South Dublin Bay SAC (000210). Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht (dated 22/08/2013).

## **Appendix 4: Classes of Activity licensed at the facility**

### **Third Schedule – Waste Disposal Activities**

#### **Main Activity:**

Class 1. Deposit into or on to land (e.g. including landfill, etc.)

#### **Other Classes of Activity**

Class 5. Specifically engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)

Class 15. Storage pending any of the operations numbered D1 to D14 (excluding temporary storage (being preliminary storage according to the definition of "collection" in section 5(1)), pending collection, on the site where the waste is produced).

### **Fourth Schedule – Waste Recovery Activities**

Class 3. Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes), which includes gasification and pyrolysis using the components as chemicals.

Class 4. Recycling/reclamation of metals and metal compounds.

Class 5. Recycling/reclamation of other inorganic materials, which includes soil cleaning resulting in recovery of the soil and recycling of inorganic construction materials.

Class 13. Storage of waste pending any of the operations numbered R 1 to R 12 (excluding temporary storage (being preliminary storage according to the definition of "collection" in section 5(1)), pending collection, on the site where the waste is produced).