

*This Report has been cleared for submission to the Board  
by Programme Manager Darragh Page*

Signed: 

Date: 10/07/2024

	<b>OFFICE OF ENVIRONMENTAL SUSTAINABILITY</b>
<b>REPORT OF THE TECHNICAL COMMITTEE ON OBJECTIONS TO PROPOSED DETERMINATION</b>	
<b>TO:</b>	Directors
<b>FROM:</b>	Technical Committee Water, Energy and Business Support Programme
<b>DATE:</b>	10/07/2024
<b>RE:</b>	Objection to Proposed Determination for AMAZON DATA SERVICES IRELAND LIMITED Drogheda IDA Business and Technology Park, Donore Road, Drogheda, County Meath, IEL Reg: P1181-01

Application Details	
<b>Classes of Activity (under EPA Act 1992 as amended):</b>	2.1 Combustion of fuels in installations with a total rated thermal input of 50 MW or more.
<b>Licence application received:</b>	08 April 2022
<b>Proposed Determination (PD) issued:</b>	27 March 2024
<b>First party objection received:</b>	0
<b>Third Party Objection received:</b>	1
<b>Submissions on Objections received:</b>	0

**Company**

The licence application relates to an Industrial Emissions Licence application from Amazon Data Services Ireland Limited (ADSIL) for the operation of a data storage installation at Drogheda IDA Business and Technology Park, Donore Road, Drogheda, County Meath.

The data storage installation acts as a centralised computer server system consisting of data halls of server units hosting, serving and distributing electronic data. The site has a two-storey data storage building, with ancillary elements such as water tanks, sprinklers, electrical rooms, and an underground foul and storm water drainage network.

The installation is supplied with electricity from the National Grid under normal operating conditions. Outside of normal operating conditions, the site's electricity supply comes initially from onsite battery storage and then by onsite generators. This occurs in the event of a loss, reduction or instability in the grid power supply; critical maintenance of power systems or a request from the National Grid operators to reduce grid electricity load. The installation will have 26 diesel powered generators and one 2.19 MW<sub>th</sub> 'admin' generator. The IE licence is required for the site due to the combined thermal input of these generators of 180.55 MW<sub>th</sub>. The class of activity licensed is *Class 2.1 Combustion of fuels in installations with a total rated thermal input of 50 MW or more.*

The installation's main emissions are air and noise from the generators, storm water discharges and emissions to sewer.

There were two submissions received in relation to the application and these were considered by the Board at PD stage.

### **Consideration of the Objection**

The Technical Committee, comprising of Katelyn Grant (Chair) of the Office of Environmental Sustainability (OES), has considered all the issues raised in the objection and this report details the Committee's comments and recommendations following the examination of the objection and the documents associated with the industrial emissions licence application.

This report considers the single third-party objection received.

The objections raised are summarised below. However, the original objection should be referred to for greater detail and further expansion of particular points.

## **Third Party Objections**

One Third Party Objection was received from Mr Colin Doyle.

The points of objection do not all relate to specific conditions of the Proposed Determination, but rather represent an objection to the decision itself, i.e. to grant an IE licence for the proposed activity, and statements made in the Inspector's Report and 'Decision and Reasons for the Decision'.

The Technical Committee has grouped some of these objections based on the topics raised. The headings are in relation to the Inspector's Report (IR), 'Decision and Reasons for the Decision' conclusions of the PD, the Climate Action and Low Carbon Development Act 2015 as amended and Condition 7.

## **Inspector's Report:**

The grounds for objection numbered 1, 2 and 6 in the objection relate to the Inspector's Report. The Technical Committee wish to clarify that any objection or submission on objection made to the Agency in relation to a licence application, can only be made to the Proposed Determination, as approved by the Board of the Agency. Therefore, the points raised by the objector in relation to the IR report have been taken in to consideration when evaluating objections in this Technical Committee Report but are not discussed in detail in this report except for the below.

The objector states firstly, that the EIAR (Environmental Impact Assessment Report) was inadequate with respect to climate impact and greenhouse gas (GHG) offset and that the Agency should have requested additional information to correct this under section 83(2)(f) of the EPA Act 1992 as amended. Secondly, that "*there is an evident conflict between the inspector's findings on climate impact and GHG offset, and the Inspector's statement on page 26.*" The IR quote is referenced below:

"I am satisfied that the information contained in the EIAR has been prepared by competent experts and that the environmental effects arising as a consequence of the activity have been satisfactorily identified, described and assessed."

Thirdly, the objector questions the validity and legal basis of a quote from the IR on page 40. "While there are national targets (as discussed above) and sectoral targets for the electricity sector, it is up to the electricity market to achieve these through the use of renewables and decarbonisation of the sector in accordance with the Climate Action Plan." In summary, the objector states that this implies that all new loads on the grid can pass responsibility for their climate impacts on to the electricity market and regardless of indirect emissions would have to be granted licences.

## Technical Committee's Evaluation:

The EIA (Environmental Impact Assessment) is a process by which environmental effects of an installation are examined. The EIAR is a report prepared by the applicant to inform the EIA process of the effects which the proposed installation would have on the environment. The EIAR is not considered in isolation for the EIA. The inspector also examined information received through consultation, documentation associated with the granted planning permission, written submissions, and any relevant supplementary information. As such, the inspector can come to conclusions that do not completely align with those in the EIAR and still be satisfied that it was sufficient for the EIA process.

I have reviewed the EIAR and do not agree with the objector that it should have required an additional information request under Section 83(2)(f) of the EPA Act 1992 as amended. I further conclude that it was sufficiently compliant with the provisions of Article 5 of the EIA Directive 2011 as amended. I am satisfied that the EIA undertaken by the Inspector was complete and sufficiently discussed in the IR.

My understanding of the IR quote in relation to the achievement of national and sectoral targets being up to the electricity market is in the context of the wider electricity supply system in Ireland and the mechanism of the EU Emissions Trading System (ETS). In terms of the EU ETS, it will drive diversification of energy supply in the electricity market. This installation and fossil fuel power plants in Ireland are part of the scheme and their carbon

dioxide emissions are addressed in that market-based scheme. The EU ETS is incentivising the decarbonisation of relevant industries, by annually decreasing the number of carbon allowances on the market. This licensee has a permit in this scheme and as such they must purchase and then surrender carbon allowances relative to their emissions each year. Fossil fuel power plants in Ireland are also permitted in this scheme and must do the same. Each year the carbon allowances available on the market are decreasing therefore raising the price of those available. This squeezes the market, thus incentivising decarbonisation. The EPA does not have the statutory power to force a licensee to offset their direct and indirect GHG emissions but there is government policy driving this including Climate Action Plans and the Climate Action and Low Carbon Development Act 2015 as amended (discussed in more detail under the next heading). However, this does not mean that their indirect emissions are disregarded and an EPA licence has to be granted. All emissions direct and indirect are considered in the Inspector's assessment before making any conclusion on a licence application. This PD includes conditions requiring the licensee to report on feasibility of alternative energy sources and offset their use of fossil-fuelled energy while having regard for the national targets when identifying opportunities for energy use reduction.

Reason for Decision:

The TC proposes no change to the IR and has reached its conclusion for the following reasons:

- The EIA has been suitably carried out and the EIA section in the IR is worded appropriately.
- The IR quote about the achievement of national and sectoral targets for the electricity sector being up to the electricity market is, in practice, true.

Recommendation: No change

**Decision and Reasons for the Decision conclusions:** The objector opposes aspects of the 'Decision and Reasons for the Decision' conclusions of the PD in their grounds for objection 3 and 7.

The objector does not agree with the first paragraph of the 'Decision and Reasons for the Decision' in the licence - "The Environmental Protection Agency is satisfied, on the basis of the information available, that subject to compliance with the conditions of this licence, any emissions from the activity will comply with and will not contravene any of the requirements of section 83(5) of the Environmental Protection Agency Act 1992 as amended."

The objection states "*the decision, does not represent a valid reasoned conclusion*" because "*As identified and quantified in the Inspector's Report there will be significant indirect emissions of CO<sub>2</sub>, which will cause environmental pollution, in contravention of Section 83(5)(v) of the EPA Act*".

The objector also states the conclusions on mitigation are flawed, "*given the significant climate impact identified in the Inspector's Report, the absence of a verified GHG offset,*

*the inapplicability of the EU ETS to Irish climate targets, and the lack of a legal basis for requiring the electricity market to decarbonise the new 48MW load”.*

The Agency’s conclusion is as follows: “Effects on climate due to release of CO<sub>2</sub> emissions will be mitigated through the limitations on the generators, which includes an operating hour restriction, conditions relating to energy efficiency and alternative energy sources, and through the requirement to participate in the EU Emissions Trading System (ETS).”

Technical Committee’s Evaluation: The environmental pollution described above is from indirect emissions of CO<sub>2</sub> and thus, according to the objector, contravenes section 83(5)(v) of the EPA Act 1992 as amended –

“The Agency shall not grant a licence or revised licence for an activity unless it is satisfied that any emissions from the activity will not cause significant environmental pollution.”

The indirect emissions come from the installations use of electricity from the National Grid which can, depending on the source of the electricity, produce significant CO<sub>2</sub> emissions and thus environmental pollution. Electricity producers using fossil fuel power plants are licenced by the EPA on an individual basis and their emissions are monitored and controlled by these licences. In terms of these electricity producers transitioning away from fossil fuels, there is government and EU policy in place to drive this and the Agency has considered these in its assessment of indirect emissions. The Climate Action Plans have set out climate objectives including at least 80% electricity from renewables by 2030 and an energy wide net zero target by 2050. The Climate Action and Low Carbon Development Act 2015 as amended has made this 2050 target legally binding. The necessary market reforms to attract more investment in renewable energy are being explored by the likes of EirGrid and SONI (System Operator for Northern Ireland). The four progress reports produced under the Climate Action Plan 2023 have shown that between the start and the end of the year 65% of the actions due for 2023 delivery were completed. The EU ETS is a separate process, managed by the EPA in Ireland which ensures decarbonisation in the relevant sectors. The EU ETS, in which this installation and fossil fuel powered plants are a part, is already showing progress in incentivising decarbonisation. In 2023, there was a 17% decrease in GHG emissions from Irish power generation and industrial companies in the scheme. The electricity generation sector, when considered in isolation, saw a decrease of almost 24% in 2023. Revenues from the scheme are used by EU Member States, which reported that 76% of the total revenue between 2013 and 2022 was spent towards the green transition. As part of the EU ETS revision, Member States must spend all the revenue on climate-related projects.

The PD has provided conditions to control the direct emissions from the installation and put in place a way for the installation to reduce its energy use, incorporate more renewables and offset indirect emissions. Thus, the Agency has considered all controls available and considered the indirect emissions in its assessment towards making these conclusions.

The TC does not agree with the objector that the Agency’s conclusion is not a valid reasoned conclusion and that the conclusion on mitigation is flawed.

Reason for Decision:

The TC proposes no change and has reached its conclusion for the following reason:

- Section 83(5)(v) of the EPA Act 1992 as amended has not been infringed.
- The agency conclusions on mitigation are valid.

Recommendation: No change
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### **Climate Action and Low Carbon Development Act 2015 as amended:**

The objector's grounds for objection number 4 "*contests the validity*" of the below statement from the 'Decision and Reasons for the Decision' of the licence.

"The Agency has performed its functions in a manner consistent with Section 15 of the Climate Action and Low Carbon Development Act 2015 as amended".

The objection considers that "*given the identified significant CO<sub>2</sub> emissions in the Inspector's Report, the Agency has failed to comply with section 15(1) (c) and (d)*".

Technical Committee's Evaluation: Section 15 of the Climate Action and Low Carbon Development Act 2015 as amended is below:

"(1) A relevant body shall, in so far as practicable, perform its functions in a manner consistent with—

- (a) the most recent approved climate action plan,
- (b) the most recent approved national long term climate action strategy,
- (c) the most recent approved national adaptation framework and approved sectoral adaptation plans,
- (d) the furtherance of the national climate objective, and
- (e) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State."

The 'relevant body' in this case is the EPA. The Agency's function is to assess the licensable activity and the development as a whole. The EIA process was completed. The Inspector considered all the emissions both direct and indirect from the installation. Strict conditions were included in the PD to control the emissions from the diesel generators for which the licence was required, including restriction on operating hours and operating power. The inspector assessed the indirect power usage and discussed that electricity used from the grid cannot be 100% verified to be from renewable sources and that the CO<sub>2</sub> emissions must be considered significant. The climate impact was reviewed, and conditions were included in the licence to alleviate impact. Conditions 2.2.6 and 7 (resource use and energy efficiency) are consistent with the Climate Action and Low Carbon Development Act 2015 as amended. The 'Environmental Objectives and Targets' condition must be reviewed by the licensee annually and Condition 7.2 'Alternative Energy Sources' will also be incorporated into this review.

I conclude that, in so far as practicable, the Agency performed its licence appraisal in a manner considerate of section 15(1) of the Climate Action and Low Carbon Development Act 2015 as amended. I conclude due regard was given to the recommendations of section 15(1) in the IR and PD.

Reason for Decision:

The TC proposes no change and has reached its conclusion for the following reason:

- The Agency’s function under the Climate Action and Low Carbon Development Act 2015 as amended has been suitably performed.

Recommendation: No change
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### **Condition 7. Resource Use and Energy Efficiency**

In summary, the grounds for objection number 5 of the objection relates to Condition 7 of the licence. *“Condition 7 has been proposed to address the identified significant climate impact in the national context.”* The objection states that it is *“vague, open to interpretation”* and *“could not lead to a legally enforceable reduction in indirect GHG emissions”*. The objection goes on to describe the scale of renewables that would be required to offset the indirect emissions from the installation. *“The evident technical, financial, and time-scale unfeasibility of achieving a significant GHG offset renders Condition 7 impractical and unenforceable.”*

Technical Committee’s Evaluation: I examined Condition 7, including its enforceability. The condition supports national policy to reduce energy sector emissions by requiring the licensee to carry out a feasibility study of opportunities to increase renewable energy options and sustainable biofuels. The energy audits are mandated by the Energy Efficiency Directive (EU/2023/1791) and can be requested at intervals as required by the Agency’s Office of Environmental Enforcement (OEE). The energy audit recommendations and the ‘Alternative Energy Sources’ study will be incorporated into the ‘Schedule of Environmental Objectives and Targets’ which is required to be reviewed annually and the conditions require that the licensee has regard to the most recent national climate action plan. The Agency guidance published for the energy audit may be amended or updated in the future. Therefore, an addition can be made to Condition 7.1.2 to include this.

All licence conditions are legally enforceable by the Agency if not complied with by the licensee. The recommendations of the feasibility study must be given to the Agency within six months to decide if they are appropriate. Condition 7 can be strengthened by changing ‘agreement’ and ‘agreed’ to ‘approval’ and ‘approved’. Condition 11.1 and 11.2 further supports the enforceability of all reports required by the license and the Agency and thus the outcomes for the Agency’s OEE.

Reason for Decision: The TC proposes the below changes to Condition 7 and has reached its conclusion for the following reason:

- To ensure compliance with the licence conditions.
- In the interest of the protection of the environment.

Recommendations:

Amend Condition 7.1.2 to read as follows:

The audit shall be carried out in accordance with the guidance published by the Agency, "*Guidance Note on Energy Efficiency Auditing*", **as may be amended or replaced by the Agency**, and have regard to any other relevant published guidance.

Amend Condition 7.2.2 to read as follows:

The licensee shall submit a report within six months of the date of grant of the licence on the study under condition 7.2.1 above with recommendations for **approval by** the Agency on the options to decrease or offset their use (both directly and indirectly) of fossil-fuelled energy.

Amend Condition 7.2.3 to read as follows:

The recommendations of the report, as **approved** by the Agency, shall be incorporated into the Schedule of Environment Objectives and Targets under Condition 2 above.

### Environmental Impact Assessment Directive – Reasoned Conclusion Update

The TC has reviewed the assessment in the Inspector's Report and, taking into account the objection received, and the contents of this TC report, the TC considers 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, and as required by Section 83(2A) of the Environmental Protection Agency Act 1992 as amended.

It is considered that the monitoring, mitigation and preventative measures proposed in the Inspector's Report, will enable the activity to operate without causing environmental pollution, subject to compliance with the licence conditions included in the PD.

### Appropriate Assessment – Technical Committee Review

The TC has reviewed the Inspector's Appropriate Assessment in the Inspector's Report and, taking into account the objection received, and the content of this TC report, the TC is satisfied that the Inspector's Report provides an adequate examination and evaluation of the effects of the activity on the European Site(s) concerned, River Boyne and River Blackwater SAC (Site Code: 002299), Boyne Coast and Estuary SAC (Site Code: 001957), Clogher Head SAC (Site Code: 001459), River Boyne and River Blackwater SPA (Site Code: 004232), Boyne Estuary SPA (Site Code: 004080), and River Nanny Estuary and Shore SPA (Site Code: 004158) in the light of their conservation objectives.



The TC notes that updated Conservation Objectives have been issued by the National Parks and Wildlife Service for European Site, River Boyne and River Blackwater SPA (Site Code: 004232), as per Table 1 below since completion of the Inspector's Report. These updated Conservation Objectives have been reviewed and considered and the TC is satisfied that the Inspector's Report provides an adequate examination and evaluation of the effects of the activity on the European Site concerned, in light of its updated conservation objectives.

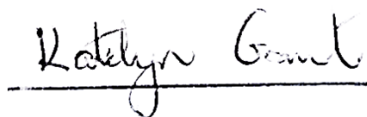
<b>Table 1. Updated Conservation Objectives</b>
<i>NPWS (2024) Conservation Objectives: River Boyne and River Blackwater SPA 004232. Version 1. National Parks and Wildlife Service, Department of Housing, Local Government and Heritage.</i>

### **Overall Recommendation**

It is recommended that the Board of the Agency grant a licence to the applicant:

- (i) for the reasons outlined in the proposed determination,
- (ii) subject to the conditions and reasons for same in the Proposed Determination, and
- (iii) subject to the amendments proposed and the reasons set out in this report.

Signed



Katelyn Grant

for and on behalf of the Technical Committee