

This Report has been cleared for submission to the Director by Marie O'Connor, Programme Manager

Signed: *Marie O'Connor*

Date: 27<sup>th</sup> February 2020



# MEMO

Office of  
Environmental  
Sustainability

To: OES Director

Date: 27 February 2020

From: Jennifer Cope

Subject: Appeal of Air Pollution Act licence granted to Mullafarry Quarry Limited, Cloonawillin, Killala, Co. Mayo by Mayo County Council.

Appeal Registration No: E0006-01

**Recommendation:** The Director is asked to APPROVE the decision recommended hereunder with respect to the appeal submitted to the Agency in relation to the Air Pollution Act licence granted to Mullafarry Quarry Limited, Cloonawillin, Killala, Co. Mayo.

## 1. Background

Air Pollution Act (APA) licences are single media licences for certain industrial processes not included in the First Schedule of the EPA Act 1992 as amended, and are granted by Local Authorities under the Air Pollution Act 1987 as amended.

The APA licence relating to this appeal is for an existing asphalt plant which is located in the townland of Mullafarry, approximately 3 km southwest of Killala. An Bord Pleanála granted planning permission for the quarry (planning permission file number 16QC2043 on 25 February 2010 (Mayo County Council planning permission reference number QY/17 appealed to ABP). It is noted that Mullafarry Quarry Limited has planning permission (planning file reference number P19/205, granted on 24 October 2019) to relocate its asphalt plant.

## 2. Third Party Appeals

The Agency received one third party appeal against the decision of Mayo County Council to grant an APA licence (Ref No: AP09) on 03 October 2018 to Mullafarry Quarry Limited for the operation of an asphalt plant.

Type	Name	Date received
Third Party appeal	TMS Environment Limited acting on behalf of Lagan Asphalt Limited (LAL), Rosemount Business Park, Ballycoolin, Dublin 11	26/10/2018
		02/11/2018 (additional information)
		25/01/2019 (additional information)
First party submission on the above appeal	Alastair Purdy & Co Solicitors action on behalf of Mullafarry Quarry Limited (MQL)	30/11/2018
Mayo County Council observations on the above appeal	Mayo County Council (MCC)	03/12/2018

Section 25 of the *Environment (Miscellaneous Provisions) Act 2015* (SI29/2015) provides for Air Pollution Act Appeals to be considered by the Agency. The APA licence appeal by LAL contests the Local Authority Air Pollution Act licence application assessment process. I consider that the specific issues raised relating to the assessment process, such as duration of the permitting process, and the availability of information to third parties, is beyond the remit of the APA appeals process. The Agency's consideration of the appeal is limited to the appeal of the decision of the Local Authority to grant the licence and to the conditions attached to the licence. In accordance with Section 34(2) of the Air Pollution Act licence, the Agency has considered the appeal to the Mullafarry Quarry Limited Air Pollution Act licence and has provided appropriate directions to the Local Authority relating to the granting of the licence.

This report considers the issues raised in the appeal and details are summarised below under topic headings. However, the original appeal should be referred to for greater detail and expansion of particular points.

### **3. Consideration of the appeal**

#### **A. Air Emissions**

##### Third Party appeal (Lagan Asphalt Limited (LAL))

*The appellant, Lagan Asphalt Limited (herein referred to as LAL), states that the decision to grant the APA licence by the Local Authority was based on inadequate information. LAL asserts that the information requested from the applicant was not sufficient to allow for an informed assessment of whether Best Practicable Means was employed and whether emissions would result in a breach of the Air Quality Standards Regulations. The appellant asserts that there was no technical evidence to support Mayo County Council (MCC) in its decision-making process. The appellant states that there was no reliable air quality monitoring data and dispersion modelling assessment of what impact the emissions would have on the air quality in the area.*

*In response to the applicant's submission on the appeal, the appellant raised further concerns in relation to the accuracy of the air emissions monitoring report (16/10/2018) and the air dispersion model assessment report (dated 18/10/2018), including that the air dispersion model is based on a limit of 400 mg/m<sup>3</sup> for NO<sub>x</sub> as opposed to the 450 mg/m<sup>3</sup> for NO<sub>x</sub> specified in the APA Licence.*

*On the 25 January 2019 LAL made the following observations:*

- 1. In relation to the air dispersion model, LAL contends that the required information was not available at the time the decision to grant the licence was made, and in those circumstances a decision to grant a licence was premature and an appeal was appropriate.*
- 2. LAL acknowledges the author's [Axis Environmental on behalf of the applicant] justification for the emissions modelled in the air dispersion model report. LAL states that in circumstances where such an understatement was identified, it was appropriate to identify the issues and to lodge the appeal.*

##### Applicant submission on Appeal (First Party Mullafarry Quarry Limited)

*The applicant submitted three documents in support of its application for an APA licence, which included an air emissions monitoring report (dated 16/10/2018) and an air dispersion model assessment report (dated 18/10/2018).*

*Axis Environmental on behalf of the applicant submitted a report which addresses LAL concerns in relation to the air emissions monitoring report and the air dispersion model assessment report.*

##### Observations on appeal (Mayo County Council (MCC))

*Mayo County Council (herein referred to as MCC) details the information assessed as part of the licence application including the application details and drawings, planning permissions, detailed site inspection report and, and further information submitted and an air dispersion model study.*

*MCC states that the applicant has demonstrated, in the application details provided, during the site inspection and in the further submission received, that the operation of the asphalt plant will use Best Practicable Means to prevent or limit air emissions. Mayo County Council states that the APA licence specifies conditions for the "management of the activity, notification, emissions to the atmosphere, monitoring and recording and reporting to the licensing authority."*

*Air monitoring was undertaken by independent consultants on behalf of the applicant on 03/10/2018 which demonstrates that the emissions were compliant with the emission limit values specified in the APA licence. The air dispersion modelling assessment shows that the predicted environmental concentrations are below the relevant air quality standards.*

*MCC notes that there is a typographical error in Appendix A.1 of the APA licence (AP09) and proposed that the volume to be emitted be reduced from 58,000 Nm<sup>3</sup>/hr to 49,000 Nm<sup>3</sup>/hr and the minimum discharge height be increased from 12 m above ground level (34 m from base elevation) to 18.3 metres above local ground level.*

#### Consideration of the Appeal

There is one channelled emission point (A1-1) from the operation of the asphalt tar plant. In consideration of the appeal it is noted that no supporting technical data was submitted with the application. Mullafarry Quarry Limited subsequently included, in its observation on the appeal, an air dispersion assessment report and air monitoring data for emission point A1-1.

Included in the applicant's observation on the appeal was a report by Axis Environmental in relation to the air emissions monitoring report and the air dispersion model which addresses LAL concerns. I consider that the applicant's response, which included an air dispersion model and air monitoring data, addresses the issues raised in the appeal and any changes required to the APA licence are outlined below.

The applicant carried out air dispersion modelling to predict the ambient pollutant concentrations resulting from the emissions to air point (A1-1). The modelling used was in accordance with published Agency guidance at the time of the applicant's observation on the appeal. While AG4 has since been updated, I am satisfied that the modelling is sufficiently detailed and conservative to adequately assess the impact of the main emissions to air from the activity. The applicant carried out air dispersion modelling, in accordance with the EPA Guidance AG4<sup>1</sup>, to predict the maximum ground level concentrations of nitrogen oxides (as NO<sub>2</sub>), sulphur dioxide (SO<sub>2</sub>) and particulates, and the predicted levels were compared with the National Air Quality Standards (SI180/2011). Modelling of SO<sub>2</sub>, NO<sub>2</sub> and particulates was carried out at emission concentrations of 500 mg/m<sup>3</sup>, 400 mg/m<sup>3</sup> and 50 mg/m<sup>3</sup> respectively. The effects of building downwash due to on-site buildings, has been included in the model. Emission points were assumed to run continuously, every hour of the day, 365 days per year. The modelling used was considered sufficiently detailed and conservative to adequately assess the impact of the emissions to air from the asphalt tar plant.

The table below gives details of the worst case predicted impact of the pollutants which are considered characteristic of the proposed air emissions.

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<sup>1</sup> EPA Air Dispersion modelling from Industrial Installations Guidance Note (AG4).

Parameter	Averaging Period	Background concentration ( $\mu\text{g}/\text{m}^3$ )	Process contribution to PEC ( $\mu\text{g}/\text{m}^3$ )	PEC ( $\mu\text{g}/\text{m}^3$ ) Note 1	PEC as % of Air Quality Standard	Air Quality Standards ( $\mu\text{g}/\text{m}^3$ ) Note 1
Nitrogen Oxides (as $\text{NO}_2$ )	99.8%ile hourly	6	34.4	40.4	20%	200
	Annual	3	2	5	12.5%	40
$\text{SO}_2$	99.7%ile hourly	67.9	4	71.9	20.5%	350
	Daily	29.9	4	33.9	27%	125
	Annual	2	2.6	4.6	23%	20
$\text{PM}_{10}$	Daily	9.3	14.6	23.9	48%	50
	Annual	9.3	2.6	11.9	30%	40
$\text{PM}_{2.5}$	Annual	8.5	1.3	9.8	49%	20

Note 1: Air Quality Standards Regulations, SI180/2011.

The air dispersion modelling assessment shows that the predicted environmental concentrations are below the relevant air quality standards. The contribution from the activity for nitrogen oxides, sulphur dioxide and particulates is not likely to have a significant impact on the environment.

Having considered the above relevant points in the appeal from LAL (the appellant), with respect to the alleged inadequacy of the licence application, as well as the data in the observation on the appeal from the Applicant, I consider that the grounds of appeal are valid. However, the Applicant has addressed the deficiency and the Appellant has been given the opportunity to comment on the improved data. I consider that the improved data is appropriate and gives a conservative estimate of the impacts of the emissions from the activity.

The EPA Guidance, *Environmental Management in the Extractive Industry (Non-Scheduled Minerals)* (EPA,2006) recommends the following emission limit values (ELVs) for emissions to air arising from asphalt plants regulated under the Air Pollution Act, 1987; sulphur dioxide of  $500 \text{ mg}/\text{Nm}^3$ , nitrogen oxides of  $450 \text{ mg}/\text{Nm}^3$  and Dust of  $50 \text{ mg}/\text{Nm}^3$ , which I consider Best Practicable Means for the emissions to air from the site. These emission limit values and a volume to be emitted of  $58,000 \text{ m}^3/\text{hr}$  are specified in Schedule A of the APA licence.

However, I note that for nitrogen oxides an emission limit value of  $400 \text{ mg}/\text{m}^3$  and the volume to be emitted of  $49,000 \text{ m}^3/\text{hr}$  were modelled; and a minimum discharge height of 19 m above ground was inputted, in the air dispersion model submitted in support of the applicant's APA Licence application.

### **Recommendation**

I recommend that Condition 6.1 of the APA licence which requires the submission of an air dispersion model be removed from the APA licence as this was submitted by the applicant as part of its observation on the appeal. I recommend that the emission limit value for nitrogen oxides be reduced from  $450 \text{ mg}/\text{m}^3$  to  $400 \text{ mg}/\text{m}^3$  and the volume to be emitted be reduced from  $58,000 \text{ Nm}^3/\text{hr}$  to  $49,000 \text{ Nm}^3/\text{hr}$  in Schedule A of the APA licence in line with what was modelled in the air dispersion model. I note that the air monitoring data provided by the applicant in support of its application demonstrates that the applicant can comply with the reduced nitrogen oxides emission limit value.

I note that MCC highlighted a typographical error in Appendix A.1 of the APA licence (AP09) and recommends that the minimum discharge height be increased from 12 m above ground level (34 m from base elevation) to 18.3 metres above local ground level in the APA licence. However, I note that the minimum discharge height of 19 m above ground was inputted into the air dispersion model and therefore recommend that the minimum discharge height be increased from 12 m to 19 m above ground.

Based on the above, it is concluded that the activity will not cause air pollution, with respect to air quality standards and the concerns of the appellant have been addressed.

**Recommendations:**

Delete Condition 6.1 of the licence and renumber the following conditions accordingly; and renumber the condition number referenced in Appendix A.3 and A.4 accordingly.

Amend Appendix A.1 Emissions to Atmosphere as follows (changes are marked in bold text):

<b>Emission Point Reference No:</b>	A1-1 – Singe Exhaust Stack
<b>Location:</b>	<b>Asphalt Tar Plant</b>
<b>Fuel Type:</b>	(a) Marked Gas Oil w/w/ <0.1% Sulphur (b) Reprocessed fuel oil e.g. 11LS or REL 210 w/w/<1.0% sulphur (c) Light fuel oil w/w/<1.0% sulphur
<b>Volume to be emitted:</b>	Maximum rate per hour: <b>49,000 m<sup>3</sup></b>
<b>Minimum discharge height:</b>	<b>19 m</b> above ground

<b>Parameter</b>	<b>Emission Limit Value mg/m<sup>3</sup></b>
<b>Sulphur dioxide (SO<sub>2</sub>)</b>	<b>500</b>
<b>Nitrogen oxides (as NO<sub>2</sub>)</b>	<b>400</b>
<b>Total Particulates</b>	<b>50</b>

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## B. Environmental nuisance at nearest environmental receptors

### Third Party appeal (Lagan Asphalt Limited (LAL))

*The appellant LAL asserts that the information requested from the applicant was not sufficient to allow for an informed assessment of whether Best Practicable Means (BPM) was employed and whether emissions would result in a breach of the Air Quality Standards Regulations. LAL asserts that the APA Licence is flawed, that it does not consider Best Practicable Means and it fails to demonstrate that air pollution, noise nuisance and odour will not occur as a result of emissions from the facility. The appellant states that the potential noise impact of the facility has not been considered in the Local Authority assessment and the APA Licence does not require the applicant to carry out any noise monitoring.*

LAL made observations on a number of conditions relating to the following:

a. *Condition 1.3 operation hours*

*LAL asserts that it is reasonable to conclude that the applicant is currently operating outside the operating hours specified in the APA licence and notes that the condition provides for temporary operation hours for agreed temporary periods following agreement with the Local Authority. LAL asserts that there has not been an impact assessment of the duration of operation hours or any temporary operation hours agreed with the Local Authority.*

b. *Condition 2.2 Procedures, Condition 2.6 Machinery and equipment enclosure, Condition 2.7 Water Sprays, Condition 3.1 Interpretation, Condition 5.3 Dust Deposition Emission Limit Value, Condition 6.1 Air Dispersion Model and Appendix A.1 Emissions to Atmosphere.*

*In summary LAL contends that there was a lack of information/evidence provided in the APA licence application to demonstrate the applicant can comply with these conditions and the dust emission limit value specified in the APA licence. LAL also queries the number and location of the dust monitoring locations.*

*c. Condition 2.5 Air emissions and odour*

*LAL states that there was a lack of information provided in the application to demonstrate whether the plant was having an impact with amenities or the environment beyond the site boundary.*

*d. Condition 6.9 Monitoring of the dust collection system*

*Condition 6.9 specifies that in the event that dust levels exceed 20 mg/m<sup>3</sup> in the exhaust stack emissions, the operation of the dry bag filter shall be investigated. LAL queries why 20 mg/m<sup>3</sup> is specified in condition 6.9 given that the Appendix 1 Emissions to Atmosphere refers to an emission limit value of 50 mg/m<sup>3</sup> for particulates. According to LAL a level of 20 mg/m<sup>3</sup> is considered best practice and BPM in this industry and is readily achievable with bag filter abatement systems. LAL states that a limit of 50 mg/m<sup>3</sup> is significantly higher than the BPM level and may not guarantee compliance with the relevant statutory air quality standards.*

*e. Condition 6.11 Ambient monitoring*

*Condition 6.11 requires the licensee to carry out ambient monitoring of sulphur dioxide, nitrogen oxides and suspended particulates for at least a period of one month. Sampling shall take place at a minimum of two sensitive locations to be agreed in advance with the Licensing Authority. If the results indicate that the statutory air quality standards may be breached, then the licensee shall take measures to ensure compliance to the satisfaction of the Licensing Authority.*

*LAL suggests that the licensee should be required to measure for fine particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>). LAL states that the condition should include one-hour, 24-hour and annual standards for the different parameters for the relevant Air Quality Standards. LAL states that one month of monitoring is insufficient to demonstrate compliance with the Air Quality Standards.*

*f. Appendix A.2 Emissions to Atmosphere Monitoring*

*LAL states that the monitoring frequency for sulphur dioxide and nitrogen oxides (quarterly) and particulates (continuous) specified in the Appendix 2 of the APA licence should be amended to require monthly monitoring of these parameters over a twelve month period following commissioning as there is a deficit in monitoring data for the asphalt plant and according to LAL, Appendix A.2 of the APA licence does not conform to best practice requirements.*

Submission on Appeal (First Party Mullafarry Quarry Limited)

*AWN Consulting Limited acting on behalf of the applicant notes that much of the appeal focuses on criticism of the Local Authority relating to the assessment process and considers that this is not relevant in the determination of the appeal by the EPA and should be discounted in that regard. The applicant asserts that LAL have not provided evidence to support what LAL means by Best Practicable Means (BPM).*

*AWN Consulting Limited states that the Applicant will of course remain compliant with the conditions of the licence and will not cause odours, noise or air pollution.*

*In relation to the following conditions in the APA licence the applicant makes the following observations to LAL challenges in their appeal.*

*a. Condition 2.5: the applicant welcomes this condition and will comply with this condition.*

- b. Condition 2.6: the applicant states that no evidence is necessary to prove compliance with this condition and it must be complied with, once the licence comes into force.*
- c. Condition 2.7: The applicant states that it will comply with this condition and that evidence to demonstrate compliance does not need to be included in the licence application.*

*Overall the applicant states that there are a number of other points made by LAL challenging a condition on the basis that there is no evidence submitted that the plant will comply. The applicant states that this is not a matter for an appeal of a licence, it is a matter for enforcement after the licence has been granted.*

#### Observations on appeal (Mayo County Council (MCC))

*MCC are satisfied that the applicant will use the Best Practicable Means to prevent or limit any emissions from the asphalt plant. MCC state that it is satisfied that any emissions from the plant will comply with the relevant ELVs, will not result in contravention of the Air Quality Standards and will not cause environmental nuisance at the nearest sensitive receptors. MCC are satisfied that the grant of the APA licence will ensure that the asphalt plant is regulated, operated and monitored to ensure that the asphalt plant will not cause significant air pollution and environmental nuisance at the nearest environmental receptor. MCC states that the planning permission (Planning reference No: QY17 [appealed to ABP Reference No. 16.QC.2043]) for the quarry specifies a noise condition. MCC states the dust monitoring is currently in place at two locations at the boundary of the quarry site and monitoring results submitted are compliant with the ELV 350 mg/m<sup>3</sup>/day. A third monitoring location has been identified for dust monitoring. MCC notes that it has not received any observations or complaints in relation to noise emissions or any other environmental emissions from the existing quarry facility.*

#### Consideration of the Appeal

##### 1. Best Practicable Means

*According to Section 5(1) The Air Pollution Act, 1987 the use of the Best practicable means to prevent or limit an emission shall be construed as meaning the provision and proper maintenance, use, operation and supervision of facilities which, having regard to all the circumstances, are the most suitable for such prevention or limitation.*

The APA licence has a number of conditions to provide for the protection of the environment by way of control and limitation of emissions. I consider that the APA licence along with the recommended changes proposed in the Direction to the Local Authority satisfies the requirements of the EPA Guidance *Environmental Management in the Extractive Industry (Non-Scheduled Minerals)* (EPA,2006) for the sector and therefore meets Best Practicable Means.

As outlined in Section A of this report above, in consideration of the appeal it is noted that no supporting technical data was submitted with the application. However, Mullafarry Quarry Limited subsequently included, in its observation on the appeal, an air dispersion assessment report and air monitoring data for emission point A1-1. This additional information addresses LAL observations on a number of conditions in the APA licence relating to operation hours, air emissions and odours.

##### 2. Noise

I note that in the consideration of this appeal MCC did not impose conditions in the licence relating to noise. It is noted the planning permission for the quarry (ABP reference No. 16.QC.2043) specifies a noise condition. Noise can cause a nuisance and loss of amenity, and different levels of noise are appropriate at different times of day and in different locations. I

consider that the noise limits as per the EPA 2006 Guidance<sup>2</sup> are Best Practicable Means and recommend they are incorporated into the APA licence. I recommend that a definition of noise sensitive location and a condition to require quarterly noise monitoring are included in the APA licence.

3. Observations on specific conditions and schedules

a. Condition 1.3 Operation Hours

As noted above in Section A of this report, emission points were assumed to run continuously, every hour of the day, 365 days per year. Therefore, I consider that the appellants observation in relation to a lack of an assessment in relation to the duration of any operating hours has been addressed with the submission of the Air dispersion model as part of this appeal process.

b. LAL observations on the following conditions related to its concern that there is no evidence that the applicant would be able to comply with the conditions. Conditions 2.2 Procedures, 2.6 Machinery and equipment enclosure, 2.7 Water sprays are standard conditions to provide for management of the activity on a planned basis and provides for the control of on-site processes for the protection of the environment.

Condition 3.1 Interpretation condition is a standard condition to clarify the interpretation of limit values fixed under the licence.

In relation to Condition 5.3 Dust Deposition and Appendix A.3 Dust deposition limit value and the dust deposition monitoring locations, I note that Condition 6.3 requires the licensee, within one month of date of the licence, to submit for agreement with the Licensing Authority, sampling locations and analytical methods for dust deposition in the surrounding area.

In relation to Condition 6.1 Air Dispersion Model and Appendix A.1 Emissions to Atmosphere, LAL concerns in relation to a lack of assessment of air emissions has been addressed by the submission of an air dispersion model by the applicant and has been addressed in Section A of this report.

There is no evidence in the application to indicate that the licensee cannot comply with the APA licence and the proposed recommendations in the Direction to the Local Authority. In conclusion, I consider that the applicant is required to be compliant with its APA licence and it is up to the Local Authority to determine the applicant's compliance with the APA licence and carry out any necessary enforcement actions as required.

c. Condition 2.5 Air Emission and odour nuisance

Condition 2.5 of the APA licence specifies that *all operations on-site shall be carried out in a manner such that air emissions and odours do not result in significant impairment of, or significant interference with amenities or the environment beyond the site boundary.*

The main potential odour emission from the site will be bitumen fumes from the vent pipes on the bitumen storage tanks. The site of the asphalt plant is located in a rural location with a low density of housing nearby (see Appendix 2 of this report). Mayo County Council states that they have received no complaints in relation to the asphalt plant. EPA 2006 guidance for the sector does not refer to odour, which indicates that odour is not generally an issue for the sector. Condition 7.2 of the APA licence requires the licensee to record all complaints relating to emissions from the activity and to submit a report quarterly to the Licensing Authority. Condition 4.1 of the APA licence requires

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<sup>2</sup> *Environmental Management in the Extractive Industry (Non-Scheduled Minerals)* (EPA, 2006).



the licensee to notify the Licensing Authority as soon as practicable after the occurrence any incident giving rise to an emission liable to cause nuisance in the surrounding lands.

As outlined in Section A of this report, Mullafarry Quarry Limited subsequently included, in its observation on the appeal, an air dispersion assessment report and air monitoring data for emission point A1-1.

I consider that the APA licence has a number of standard conditions, including Condition 2.5, to provide for the protection of the environment by way of control and limitation of emissions.

d. Condition 6.9 Monitoring of the dust collection system

As outlined in Section A above the air dispersion modelling assessment shows that the predicted environmental concentration for particulates is below the relevant air quality standards. The contribution from the activity for particulates is not likely to have a significant impact on the environment.

The EPA 2006 guidance recommends an emission limit value of 50 mg/m<sup>3</sup> for dust for emissions to air arising from asphalt plants regulated under the Air Pollution Act, 1987. The APA licence specifies an emission limit value of 50 mg/m<sup>3</sup> for particulates, which represents Best Practicable Means as set out in the EPA 2006 guidance. In practice lower levels are likely to be achieved and this is reflected in the value of 20 mg/m<sup>3</sup> set in Condition 6.9. I consider that the purpose of Condition 6.9 to investigate the operation of the dust levels in the exhaust stack emissions when the dust level exceeds 20 mg/m<sup>3</sup> is to ensure the licensee has a maintenance system in place for the dust collection system and for the licensee to take action in the case of attaining or exceeding the 20 mg/m<sup>3</sup> trigger value. This condition provides for the management of the activity on a planned basis and for appropriate operation of the facility to ensure protection of the environment.

e. Condition 6.11 Ambient Monitoring

In consideration of the appeal it is noted that no supporting technical data was submitted with the application. Mullafarry Quarry Limited subsequently included, in its observation on the appeal, an air dispersion assessment report and air monitoring data for emission point A1-1. The air dispersion modelling assessment shows that the predicted environmental concentrations are below the relevant air quality standards. The contribution from the activity for nitrogen oxides, sulphur dioxide and particulates is not likely to have a significant impact on the environment and the requirement for ambient monitoring is considered excessive. I consider that Condition 6.11 is therefore no longer required and recommend that it be removed from the APA licence.

f. Appendix A.2 Emissions to Atmosphere monitoring

The appellant does not provide evidence to support its assertion that monthly monitoring for sulphur dioxide, nitrogen oxides and particulates over a twelve month period following commissioning is best practice. Condition 6.4 of the APA licence requires the licensee to, within one month of grant of the licence, commission an independent, qualified person to undertake the monitoring of emissions to the atmosphere to demonstrate compliance with the emission limit values set in Appendix A.1 of the APA licence. The results of the monitoring are required to be submitted to the Local Authority within ten days of completion of the monitoring. I note that there is no specific monitoring frequency for sulphur dioxide, nitrogen oxides and particulates recommended in the EPA 2006 guidance. The applicant in its observation of the appeal submitted air monitoring data for 03/10/2018 which demonstrates that the licensee can comply with the emission limit values specified in Appendix A.1 of the APA licence. Condition 5.1 of the APA licence requires the licensee to agree a monitoring programme within one month of the date of issue of the licence with the Licensing Authority to demonstrate the achievement of the necessary operational parameters and the specified emission limit values of the APA licence. As part of this monitoring programme

monitoring and analysis equipment should be maintained as necessary so that monitoring results accurately reflect the emissions to air from emission point A1-1.

I consider that the requirements of condition 6.4 and quarterly monitoring of sulphur dioxide and nitrogen oxides; and continuous monitoring of particulates as specified in Appendix 2 of the APA licence are reasonable to demonstrate compliance with the emission limit values specified in Appendix A.1.

### **Recommendation**

I recommend that conditions relating to noise outlined below should be imposed on the operation of this licence. I recommend that noise limits are applied as per the EPA 2006 Guidance. I recommend that a definition of noise sensitive location and a condition to require quarterly noise monitoring are included in the APA licence.

As outlined above, I recommend that Condition 6.11 Ambient Monitoring be removed from the APA licence.

Based on the above, I consider that the controls and limitation of emissions are sufficient to ensure emissions are not likely to have a significant impact on the environment.

#### **Recommendations:**

**Delete Condition 6.11 and renumber the following conditions accordingly.**

**Insert the following Glossary of Terms as follows:**

Noise-sensitive location (NSL) Any dwelling house, hotel or hostel, health building, educational establishment, place of worship or entertainment, or any other installation or area of high amenity which for its proper enjoyment requires the absence of noise at nuisance levels.

**Insert new Condition 6.11 as follows:**

6.11 Noise from the plant shall not give rise to sound pressure levels measured at noise sensitive locations in the vicinity of the plant which exceed the following emission limit values:

(a) Day time: 08:00-20:00 hrs

LAeq (1 hour) = 55dBA

(b) Night time: 20:00 -08:00 h

LAeq (1h) =45dBA

An appropriate correction shall be applied in the case of tonal and impulsive components in the measurements of noise

**Insert new Condition 6.12 as follows:**

6.12 The licensee shall carry out noise monitoring at the noise sensitive locations in the vicinity of the plant. This monitoring shall be carried out quarterly in accordance with the methodology specified in the 'Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4)' as published by the Agency.

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### **C. Appropriate Assessment**

#### **Third Party appeal (Lagan Asphalt Limited)**

*LAL states that there are a number of European sites within 15 km of the site and the Local Authority purported to reach its Appropriate Assessment screening determination by reference to two specific sites only. LAL states that the AA screening report from MCC presented no back up information to inform the decision noted in the report. In particular statements regarding*

*the potential impacts on the named designated European sites in respect of dust emissions and discharges to water are unsupported by technical evidence.*

#### Observations on appeal (Mayo County Council)

*MCC states the application was examined for the requirement for Appropriate Assessment for the asphalt project. MCC considered the distance, hydraulic connectivity and potential for impacts on Qualifying Interests. MCC determined that an Appropriate Assessment Screening or Appropriate Assessment was not necessary in this case.*

#### Consideration of the Appeal

In consideration of the appeal it is noted that MCC examined the requirement for Appropriate Assessment for the asphalt project. It is noted that any discharges to water are not in the remit of an APA licence and should be considered at the planning application stage. There is no set recommended distance for which European sites are considered as being relevant for Appropriate Assessment (AA). Available guidance (NPWS, 2010<sup>3</sup>) recommends that 'the distance should be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects'. Department for Environment, Heritage and Local Government guidance<sup>3</sup> considers it appropriate to examine all European sites within 15km as a starting point. The identification of a pathway does not automatically mean that significant effects will arise. The likelihood for significant effects will depend upon the characteristics of the source (*e.g.* nature of the emission), the characteristics of the pathway (*e.g.* size and water quality status of a waterbody receiving the emission) and the characteristics of the receptor (*e.g.* the sensitivities of the European sites and their Qualifying Interests).

In accordance with the requirements of Regulation 42 of the Habitats Regulations, I have carried out Appropriate Assessment screening which addresses point source air emissions and fugitive dust emissions. Please see Section 4 of this report for further details.

**Recommendation:** No change.

## **4. Appropriate Assessment**

The APA licence relating to this appeal is for an existing asphalt plant which is located in the townland of Mullafarry, approximately 3 km southwest of Killala.

The proposed emissions from the plant include the following:

- Process emissions of nitrogen oxides, sulphur dioxide and particulates from the combustion process.
- Fugitive dust emissions from aggregate storage and transportation.
- Bitumen fumes through the vent pipes on the bitumen storage tanks.
- Noise emissions.

Appendix 1.0 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 activity, individually or in combination with other plans or projects is likely to have a significant effect on any European

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<sup>3</sup> Department for Environment, Heritage and Local Government (2009, Revised February 2010). Appropriate Assessment of Plans and Projects in Ireland Guidance for Planning Authorities.

Site. In this context, particular attention was paid to the European sites specified in Appendix 1.0.


The activity is not directly connected with or necessary to the management of any European Site and I consider, for the reasons set out below, that it can be excluded, on the basis of objective scientific information, that the activity, 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 activity was not required.

This determination was made considering the scale and nature of emissions to air (including noise) from the asphalt plant, and their distance to European sites. Air dispersion modelling demonstrates that, at the boundary of the asphalt plant site, emissions from the activity will not result in ground level concentrations which exceed the relevant air quality standards for the protection of vegetation and the environment; thereby indicating that the impact from the resultant ground level concentrations at the European sites would be negligible.

#### **5. Recommendations and notes**

It is recommended that the Agency, in accordance with Section 34 of the Air Pollution Act 1987 as amended, direct Mayo County Council to grant the licence (reference number AP09) under the Air Pollution Act 1987 to Mullafary Quarry Limited, for atmospheric emissions at a site located at Cloonawillin, Killala, Co. Mayo, subject to the amendments detailed in this report.

Signed



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Jennifer Cope  
Inspector ELP

**Appendix 1.0**

European Site (site code)	Distance/ Direction from the site of the asphalt plant	Qualifying Interests (* denotes a priority habitat)	Conservation Objectives
Killala Bay/Moy Estuary SAC (site code 000458)	Approximately 2.3 km northeast	<p><b>Habitats</b></p> <p>1130 Estuaries</p> <p>1140 Mudflats and sandflats not covered by seawater at low tide</p> <p>1210 Annual vegetation of drift lines</p> <p>1230 Vegetated sea cliffs of the Atlantic and Baltic coasts</p> <p>1310 Salicornia and other annuals colonising mud and sand</p> <p>1330 Atlantic salt meadows (Glauco-Puccinellietalia maritimae)</p> <p>2110 Embryonic shifting dunes</p> <p>2120 Shifting dunes along the shoreline with Ammophila arenaria (white dunes)</p> <p>2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)*</p> <p>2190 Humid dune slacks</p> <p><b>Species</b></p> <p>1095 Sea Lamprey (<i>Petromyzon marinus</i>)</p> <p>1014 Narrow-mouthed Whorl Snail (<i>Vertigo angustior</i>)</p> <p>1365 Harbour Seal (<i>Phoca vitulina</i>)</p> <p><b>Birds</b></p> <p>A157 Bar-tailed Godwit (<i>Limosa lapponica</i>)</p> <p>A162 Redshank (<i>Tringa totanus</i>)</p> <p>A160 Curlew (<i>Numenius arquata</i>)</p> <p>A149 Dunlin (<i>Calidris alpina</i>)</p> <p>A144 Sanderling (<i>Calidris alba</i>)</p> <p>A141 Grey Plover (<i>Pluvialis squatarola</i>)</p> <p>A140 Golden Plover (<i>Pluvialis apricaria</i>)</p> <p>A137 Ringed Plover (<i>Charadrius hiaticula</i>)</p> <p><b>Habitats</b></p> <p>Wetlands</p>	<p>NPWS (2012) Conservation Objectives: Killala Bay/Moy Estuary SAC 000458. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.</p>
Killala Bay/Moy Estuary SPA (site code 004036)	Approximately 2.8 km north east	<p><b>Habitats</b></p> <p>Wetlands</p>	<p>NPWS (2013) Conservation Objectives: Killala Bay/Moy Estuary SPA 004036. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.</p>

<p>River Moy SAC (site code 002298)</p>	<p>Approximately 6.9 km south</p>	<p><b>Habitats</b>  7110 Active raised bogs*  7120 Degraded raised bogs still capable of natural regeneration  7150 Depressions on peat substrates of the <i>Rhynchosporion</i>  7230 Alkaline fens  91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles  91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>)*  <b>Species</b>  1096 Brook Lamprey (<i>Lampetra planeri</i>)  1106 Salmon (<i>Salmo salar</i>)  1355 Otter (<i>Lutra lutra</i>)  1092 White-clawed Crayfish (<i>Austropotamobius pallipes</i>)  1095 Sea Lamprey (<i>Petromyzon marinus</i>)</p>	<p>NPWS (2016) Conservation Objectives: River Moy SAC 002298. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.</p>
<p>Lackan Saltmarsh and Kilmummin Head SAC (site code 00516)</p>	<p>Approximately 7.2 km north</p>	<p><b>Habitats</b>  1310 Salicornia and other annuals colonising mud and sand  1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)  1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>)  2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)  2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)*</p>	<p>NPWS (2016) Conservation Objectives: Lackan Saltmarsh and Kilmummin Head SAC 00516. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.</p>
<p>Bellacorick Bog Complex SAC (site code 001922)</p>	<p>Approximately 9.2 km west</p>	<p><b>Habitats</b>  3160 Natural dystrophic lakes and ponds  4010 Northern Atlantic wet heaths with <i>Erica tetralix</i>  7130 Blanket bogs (* if active bog)  7150 Depressions on peat substrates of the <i>Rhynchosporion</i>  7230 Alkaline fens  <b>Species</b>  1528 Marsh Saxifrage (<i>Saxifraga hirculus</i>)  1013 Geyer's Whorl Snail (<i>Vertigo geyeri</i>)</p>	<p>NPWS (2017) Conservation Objectives: Bellacorick Bog Complex SAC 001922. Version 1. National Parks and Wildlife Service, Department of Culture, Heritage and the Gaeltacht.</p>
<p>Lough Conn and Lough Cullin SPA (site code 004228)</p>	<p>Approximately 10.1 km south</p>	<p><b>Birds</b>  A395 Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>)  A061 Tufted Duck (<i>Aythya fuligula</i>)</p>	<p>NPWS (2018) Conservation Objectives: Lough Conn and Lough Cullin SPA 004228. Generic Version 6.0. National Parks and Wildlife Service,</p>

		<p>A065 Common Scoter (<i>Melanitta nigra</i>)  A182 Common Gull (<i>Larus canus</i>)  <b>Habitats</b>  Wetlands</p>	<p>Department of Culture, Heritage and the Gaeltacht.</p>
<p>Glenamoy Bog Complex  SAC (site code 000500)</p>	<p>Approximately 11.8  km northwest</p>	<p><b>Habitats</b>  1230 Vegetated sea cliffs of the Atlantic and Baltic coasts  21A0 Machairs (* in Ireland)  3160 Natural dystrophic lakes and ponds  4010 Northern Atlantic wet heaths with <i>Erica tetralix</i>  5130 Juniperus communis formations on heaths or calcareous grasslands  7130 Blanket bogs (* if active bog)  7140 Transition mires and quaking bogs  7150 Depressions on peat substrates of the Rhynchosporion  <b>Species</b>  1106 Salmon (<i>Salmo salar</i>)  1395 Petalwort (<i>Petalophyllum ralfsii</i>)  1528 Marsh Saxifrage (<i>Saxifraga hircullus</i>)  1393 Slender Green Feather-moss (<i>Drepanocladus vernicosus</i>)</p>	<p>NPWS (2017) Conservation Objectives:  Glenaboy Complex SAC 000500. Version 1.  National Parks and Wildlife Service, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.</p>

**Appendix 2.0 Location of the asphalt plant**

