

Memorandum of Understanding

Environmental Protection Agency

and

An Bord Pleanála

The objective of this Memorandum of Understanding (MoU) is to set out a framework for co-ordination on areas of mutual responsibility and shared interest between the Environmental Protection Agency and An Bord Pleanála, particularly in relation to certain provisions in the Planning and Development Act 2000 as amended, the Environmental Protection Agency Act 1992 as amended, the Waste Management Act 1996 as amended, the Waste Water Discharge (Authorisation) Regulations 2007 as amended and Regulation (EU) No. 347/2013 of the European Parliament and of the Council of 17th April 2013 on Guidelines for Trans-European Energy Infrastructure.

Signed:

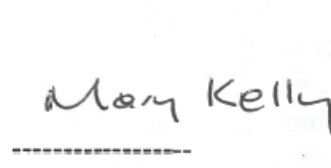


Laura Burke
Director General
Environmental Protection Agency

Date

3/11/2017

Signed:



Mary Kelly
Chairperson
An Bord Pleanála

Date

03.11.17

1. Introduction

1.1 Background

The Planning and Development Act 2000 as amended (the Planning Act), assigns various functions to An Bord Pleanála (ABP) including deciding appeals against decisions of planning authorities on applications for permission for the development of land and the determination of applications for permission/approval for Strategic Infrastructure Development (SID) some of which require a licence or certification to operate from the Environmental Protection Agency (EPA). ABP is also the designated competent authority for Projects of Common Interest¹.

The Environmental Protection Agency Act 1992 as amended (the EPA Act), and Waste Management Act 1996 as amended (the WM Act), assign the licensing function of certain types of activities or facilities to the EPA. The Waste Water Discharge (Authorisation) Regulations 2007 as amended, (the WWDA Regulations) also provide for licensing and authorisation functions and are relevant to the functions of both bodies.

The Planning Act and the WWDA Regulations require ABP to take into consideration, when determining an appeal or application, that the control of emissions from an activity that requires an EPA licence for:

- Integrated Pollution Control (IPC),
- Industrial Emissions (IE),
- Waste, or a
- Municipal wastewater discharge licence/Certificate of Authorisation, for an agglomeration operated by *Irish Water*,

is a function of the EPA.

ABP's role as Competent Authority in the permit granting process for Projects of Common Interest (PCIs) is to collate and co-ordinate the issuing of all the consents and decisions required from all relevant authorities in compliance with specific time limits. ABP's statutory planning role in determining any application lodged with it continues to be one of independent assessor.

¹ Regulation (EU) No. 347/2013 of the European Parliament and of the Council of 17 April 2013 on Guidelines for Trans-European Energy Infrastructure.

This approach may result in liaison taking place between ABP, as Competent Authority for PCIs, and the EPA. This will be in addition to the liaison which may take place between ABP and the EPA in conjunction with both organisations statutory planning and licensing functions.

1.2 Functions of the EPA and An Bord Pleanála

Environmental Protection Agency

The EPA is an independent public body established under the EPA Act and has responsibilities for a wide range of licensing, enforcement, research, monitoring and assessment activities associated with environmental protection.

The EPA Act gives primary responsibility to the EPA for the protection of the environment and control of pollution in the State from certain licensable activities. The WM Act gives similar primary responsibility to the EPA in relation to waste management activities at licensable facilities. ABP is prohibited from imposing conditions in the grant of a permission/approval that are for the purpose of controlling emissions from the operation of the activity for which an Integrated Pollution Control (IPC), Industrial Emissions (IE) or Waste licence is required.

The WWDA Regulations require Irish Water to apply to the EPA for a licence or a Certificate of Authorisation for discharges to receiving waters from their municipal waste water works (the agglomeration). Where such a licence or certification has been granted, ABP is prohibited from imposing conditions for the purpose of controlling the discharge from the waste water works. Where a licence or certification is required but has not yet been granted, ABP may impose conditions for the purpose of controlling the discharge from the waste water works, but such conditions cease to have effect once the EPA licence or certificate is granted.

Section 83 of the EPA Act and Section 40 of the WM Act require that an environmental impact assessment (EIA) be carried out by the EPA in respect of certain applications for IPC, IE or waste licences. Where a planning application for the proposed activity has been determined (decision made), or is under consideration by ABP, and an EIS has been submitted to the EPA, the Agency must notify and seek the observations of ABP in relation to the licence application. ABP must respond to this request. The EPA is obliged to consider any observations furnished by ABP before giving notice of the decision it proposes to make in relation to the application for a licence. In any case, the EPA cannot

issue its decision on an application to it for a licence or a revised licence where a relevant planning application is still under consideration by a planning authority or by ABP. The statutory and agreed provisions for observations and consultation between the two bodies are set out at Appendix 1.

An Bord Pleanála

ABP was established in 1977 under the Local Government (Planning and Development) Act, 1976, and is responsible for the determination of appeals and certain other matters under the Planning Act and is also responsible for the determination of applications for strategic infrastructure development, including major road and railway proposals. It is also responsible for dealing with proposals for the compulsory acquisition of land by local authorities and others under various enactments. The Board also has functions to determine appeals under the Water Pollution Acts, the Air Pollution Acts and the Building Control Act.

ABP is primarily responsible for spatial/land use planning and general environmental concerns. The EPA Act and WM Act provide that ABP may, notwithstanding the fact that a licence or revised licence has been granted, or is, or will be required under either of the Acts, refuse permission/approval for development requiring an IPC, IE or Waste licence where it considers that the development is unacceptable on environmental grounds. Similarly, ABP may refuse planning permission/approval or limit the scale of development where it considers that a waste water discharge would cause or exacerbate breaches of the *combined approach*² or otherwise cause serious water pollution.

ABP may seek the observations/views of the EPA in relation to proposed development where the application before ABP, either by way of an appeal or direct strategic infrastructure development application, involves a licensable activity under the EPA Act or the WM Act in respect of the likely impact of a proposed development on waste water discharges, controlled under the WWDA Regulations. When making its decision, ABP shall have regard to the observations received from the EPA. ABP may also consult with the EPA at the pre-application consultation stage of relevant proposals for strategic infrastructure development.

Section 172 of the 2000 Planning Act requires that an EIA be carried out by a planning authority or ABP, as the case may be, in respect of certain applications for consent for proposed development. The requirement contained in planning legislation is that an assessment as required by Article 3 of the EIA Directive, including consideration of the

² Defined in the Waste Water Discharge (Authorisation) Regulations 2007, as amended.

interaction of all factors, must be carried out by the planning authority or An Bord Pleanála, as relevant.

ABP must seek the observations of the EPA in relation to proposed development where the application before the Board, either by way of an appeal or direct strategic infrastructure development application, involves a licensable activity under the EPA Act or the WM Act and is accompanied by an EIS. The EPA must respond to this request. ABP shall have regard to the observations received from the EPA. The statutory and agreed provisions for observations and consultation between the two bodies is set out at Appendix 1.

ABP is the designated Competent Authority for granting permits for Projects of Common Interest (PCI) designated under the provisions of Regulation (EU) No. 347/2013 of the European Parliament and of the Council of 17 April 2013 on Guidelines for Trans-European Energy Infrastructure. As Competent Authority, ABP is responsible for making the comprehensive decision in granting the permit within the time limits specified in the Regulation.

The Irish State has chosen to adopt the 'collaborative approach' set out in the Regulation as the mechanism for issuing of the comprehensive decision.

A Manual of Permit Granting Process Procedures for PCIs was published by ABP in May 2014 and is available to download from its website. This manual was informed by information provided by the EPA and sets out the roles and functions of both bodies in the PCI process. The manual may be reviewed from time to time and this may involve consultation between ABP and the EPA.

1.3 Statutory Consultation Provisions

The principle legislation governing the consultation requirements between ABP and EPA are listed in Appendix 1 of this document. The legislation provides the procedures by which both bodies may seek or provide comments on developments or activities.

Appendix 1 includes an elaboration on some (not all) of these consultation provisions for the purposes of clarity and to facilitate ongoing co-operation between both bodies. Other consultation procedures provided by the legislation that are not elaborated on in Appendix I may be relied upon by either body as appropriate.

2. Purpose of Memorandum of Understanding

The Memorandum of Understanding is intended to facilitate the efficient co-ordination of the statutory functions of ABP and the EPA in respect of environmental issues under the Planning Act, EPA Act, WM Act and the WWDA Regulations. Further, it will help to:

- i. provide an integrated approach to environmental issues which ABP and the EPA are statutorily required to consider;
- ii. facilitate a holistic approach to EIA as required under the EIA Directive;
- iii. provide an agreed approach between ABP and the EPA to the exchange of information;
- iv. eliminate, where practicable, avoidable delays in the delivery of services to stakeholders;
- v. provide and deliver a quality customer service for both organisations;
- vi. enable relevant environmental issues to be considered and addressed at an early stage in relation to proposed strategic infrastructure development applications with a view to achieving better quality applications, timely decisions and a holistic EIA;
- vii. facilitate liaison between the EPA and ABP in particular cases in assessing the acceptability or otherwise of proposed development in a locational context;
- viii. facilitate liaison between the EPA and ABP in the attachment of conditions designed to protect the environment, to a consent from ABP in relation to aspects of a proposed development not covered by a licence or certificate;
- ix. clarify that relevant issues including waste policy issues are dealt with by the appropriate organisation;
- x. facilitate implementation of the above provisions by establishing procedures between ABP and the EPA in accordance with the legislative requirements; and
- xi. clarify procedures and set out contact arrangements between the two agencies.

3. Practical Measures

3.1 Organisation

i. Joint Review Group

Joint meetings will be held as considered necessary but not less frequently than once a year. The practical operation of the activities agreed under this Memorandum of Understanding will be reviewed regularly and updated as required. Arrangements for these meetings shall be agreed between the Chief Officer of ABP and the Programme Manager in the Environmental Licensing Programme of the Office of Environmental Sustainability (OES) of the EPA or agreed delegated officials.

ii.Operational Liaison

The appropriate Senior Administrative Officer (SAO) or equivalent in the Appeals section and the SAO in the Strategic Infrastructure section in ABP and the Programme Manager in the Environmental Licensing Programme of the EPA will handle operational contacts between the EPA and ABP.

The appropriate SAO in ABP will issue all requests for observations and opinions submitted to the EPA and the Programme Manager of the Environmental Licensing Programme will approve all responses by the EPA. All requests for observations and opinions are to be submitted to the Programme Manager of the Environmental Licensing Programme or the agreed delegated official(s). Equivalent reciprocal arrangements will apply to requests by the EPA to ABP for observations and opinions.

iii.General Consultation

The EPA will circulate all relevant guidance or information documents or booklets to ABP for information or where appropriate for comment prior to publication where such guidance and information relates to matters that fall within the general functions of ABP. Such guidance or booklets may include information on EIS preparation and content, licensing processes and procedures and BAT Guidance Notes.

ABP will circulate all relevant guidance or information documents or booklets to the EPA for information or where appropriate for comment prior to publication, where such guidance and information relates to matters that fall within the general functions of the EPA.

iv. Inter-agency working groups/meetings

The EPA and ABP may agree to establish working groups, convene meetings or make other arrangements to examine matters of common interest. Such groups or meetings may examine matters of a technical, legal or administrative nature where co-operation may provide opportunities for more effective operations between both organisations.

Such working groups or meetings as may be established from time to time will operate under a Terms of Reference to be agreed by both agencies.

4. Specific Arrangements

4.1 General

Any request by either body to enter into consultation in relation to cases involving a licensable activity will be in writing and be made under the relevant section of the EPA Act, WM Act, Planning Act or the WWDA Regulations, as appropriate and, where relevant, in accordance with the protocols set out in Appendix 1.

Where ABP seeks comments from the EPA in respect of licensable activities, and where the EPA is not required under statute to make a response, and where no response to a request has been received within the agreed time period, it is agreed that ABP can proceed on the basis that the EPA has no further comment in relation to the matter. Reciprocal arrangements will apply to EPA requests to ABP.

ABP will endeavour to give as much time as practicable to the EPA for the submission of its observations and in any event seek the comments of the EPA as early as possible after the case is received. Reciprocal arrangements will apply to EPA requests to ABP. The agreed timeframes for either body to respond to consultation requests in relation to licensable activities are outlined in Appendix 1.

Where ABP is required to seek observations or the opinion of the EPA on any matter prescribed by legislation, and where no time period for a response is specified in the legislation, it is agreed that the EPA will respond within 4 weeks. Reciprocal arrangements will apply to EPA requests to ABP.

A request to the EPA for observations may specify particular issues upon which ABP is seeking observations. In cases where observations are received by ABP from the EPA, these may be cross-circulated to the parties and other participants for their comments. Any comments received on foot of cross-circulation of material by ABP may be forwarded by ABP to the EPA for its further observations. Reciprocal arrangements will apply to EPA requests to ABP, as appropriate.

4.2 Planning Appeals

ABP will, where it considers it necessary to do so, seek the observations of the EPA in cases involving a licensable activity only where no observations have been submitted by the EPA to the planning authority that dealt with the planning application or where additional relevant material has been submitted at appeal stage. In cases where the EPA

had made observations to the planning authority, ABP may seek additional information and/or clarification of the earlier observations where it is considered appropriate.

4.3 Strategic Infrastructure Development (SID)

(i) Pre-application Consultation

Where pre-application consultations are held under SID, ABP may consult and/or request the prospective applicant to consult, with the EPA if the case in question involves a licensable activity. The general purpose of the involvement of the EPA at this stage is to enable ABP to advise the prospective applicant of any environmental issues, including those within the competence of the EPA, in the preparation of the application for permission/approval to ABP including the EIS. The purpose of this is to avoid deficiencies in the EIS and potential delays at the application stage. ABP may also indicate to the prospective applicant that he/she must notify the EPA when making an application for SID. ABP will do so in the case of any development for the purposes of an activity requiring an IPC, IE or a Waste licence.

(ii) Scoping

In addition to pre-application consultations, ABP may be requested to scope an EIS relating to proposed SID. The EPA is a prescribed body with whom ABP must consult for the purposes of such a request. ABP will always seek observations from the EPA in situations where the 'scoping' relates to an activity licensable by the EPA.

(iii) SID Applications

When an applicant is making an application for SID to ABP, he/she will be required to forward a copy of the application (with the EIS) to the EPA if so advised at the pre-application consultation stage. The copy of the application will be accompanied by a notice inviting the EPA to make submissions or observations to ABP in relation to the implications of the proposed development for proper planning and sustainable development and the likely effects on the environment. Any such submissions or observations must be received by ABP within the period specified in the notice (minimum of six weeks). This is vital to ABP in meeting its statutory time objective of delivering decisions within 18 weeks.

In addition to the above general invitation for observations to the EPA from the applicant in a relevant SID application, before making a decision on an application, ABP may also

subsequently, of its own volition, request the EPA to make observations. Such observations may be in respect of the proposed development comprising or for the purposes of an activity for which an IPC, IE licence or a waste licence is required or where a licence/certificate has issued or will be required under the WWDA Regulations [Section 37F(5)] of the Planning Act and Regulation 44(1) of the WWDA Regulations. ABP must have regard to any observations received from the EPA.

(iv) Alteration of SID

Where a person submits an EIS to ABP in relation to a request to alter an SID proposal already permitted/approved by ABP and where a licensable activity is involved, ABP will request the observations of the EPA in accordance with the protocol set out at Appendix 1.

(v) SID Meetings

In addition to oral hearings, the Planning Act make provision for meetings to be held in some circumstances. This could involve the EPA in some instances. It is necessary that a record should be kept of any such meeting. The agenda for any such meeting will be notified to the EPA in advance.

4.4 Environmental Impact Assessment

In all cases involving appeals and applications to ABP, where an EIS has been submitted and a licence is required from the EPA, the EPA and ABP will carry out an EIA of the proposal in accordance with Article 3 of the EU EIA Directive 2011/92/EU and the relevant transposing legislation under domestic law. The protocol for co-ordination between the bodies is set out in Appendix 1.

4.4.1 Scoping of an Environmental Impact Statement (EIS)

Where a person, local authority, or other body is required to submit an EIS to ABP in relation to an application to develop land, the person or body may request ABP to scope the EIS, i.e., to provide the person or the authority with its opinion as to the information which should be contained in the EIS.

In such cases, where a licence is required from the EPA, ABP will request observations from the EPA in relation to the information to be contained in the EIS. A copy of any submission received from the EPA will be sent to the applicant with ABP's written opinion on the information to be contained in the EIS.

4.4.2 Sub EIA-threshold proposed development

ABP may request an opinion from the EPA where a question arises regarding the necessity to submit an EIS in a case before ABP and where there is also a requirement for licensing consent. The protocol for such a request is set out in Appendix 1.

4.5 Appropriate Assessment

ABP and the EPA may agree guidelines and procedures to fulfil the obligations under Article 42 of the EC (Birds and Habitats) Regulations 2011 (as amended) in respect of Appropriate Assessment (AA) through a working group as provided for under Section 3.1(iv).

4.6 Waste Water Discharges

The EPA and ABP may establish a working group, as provided for under Section 3.1(iv), to develop procedures which facilitate consultation, as may be required, between ABP and EPA for waste water discharges that require an Environmental Impact Assessment in accordance with the Waste Water Discharge (Authorisation) (Environmental Impact Assessment) Regulations 2016 (S.I. No. 652 of 2016).

4.7 Non-licensable activity

Occasionally, cases may arise where an appeal or an SID application involves an activity that is not licensable but where ABP considers that the observations of the EPA should be sought. In seeking observations in such cases, ABP will specify the issues on which it is seeking observations.

4.8 Oral Hearings

ABP will keep the EPA informed of any oral hearing it proposes to hold in cases where observations from the EPA had been sought directly by ABP. Reciprocal arrangements will

apply where the EPA proposes to hold an oral hearing, as appropriate. In some cases, ABP may request an EPA official to attend an oral hearing and, where appropriate, to provide information. (This is without prejudice to ABP's statutory power under section 135 of the Planning Act to require any person to attend an oral hearing and provide information, etc.).

4.9 Notification of Decisions

ABP will inform the EPA of decisions taken in cases where observations from the EPA had been sought by ABP or the EPA was otherwise involved directly with ABP in the case. Reciprocal arrangements shall apply in the event of relevant EPA decisions taken.

5. Guidelines for Observation Requests

ABP will issue guidelines to its staff outlining the general issues which it may request the EPA to address when seeking observations from it. Any request under this heading from ABP should be explicit as to the information or observations sought.

Appeal consultation requests or submissions received by ABP from a party or observer would not normally be sent to the EPA for their observations except where the material concerned is directly related to earlier observations received.

Responses to consultation requests between the two bodies shall be in accordance with the protocol set out in Appendix 1, insofar as possible. In accordance with statutory provisions, the provision of observations by the EPA, including the giving of an opinion in relation to an EIS submitted, will not prejudice any other function of the EPA under the EPA Act, WM Act or the WWDA Regulations.

The EPA will issue guidelines to its staff outlining the procedures and timeframes for responding to requests from ABP for information/submissions. Furthermore, the EPA will issue guidelines to its staff outlining the general issues which it may request ABP to address when seeking observations from it. Any request by the EPA to An Bord Pleanála should be explicit as to the information or observations sought.

6. Confidentiality

Both parties to this MoU shall be bound by Data Protection and confidentiality requirements of their relevant legislation.

This MoU does not override the statutory duties or powers of the individual competent authorities and is an indication of agreement rather than a legal commitment.

7. MOU Review Period

The term and operation of this MoU shall be reviewed at least every 3 years by the competent authorities.

Appendix 1

Consultations and Observations

Introduction

This Appendix sets out agreed consultation procedures where both ABP and the EPA are competent authorities for the purposes of EIA.

The following legislative provisions apply:

- Environmental Protection Agency Act 1992 as amended
- Waste Management Act 1996 as amended
- Planning and Development Act 2000 as amended
- Waste Water Discharge (Authorisation) Regulations 2007 as amended
- European Union (EIA) (IPPC) Regulations SI 282 of 2012
- European Union (EIA) (WASTE) Regulations SI 283 of 2012
- European Union (EIA) (IPPC) (No. 2) Regulations SI 457 of 2012
- European Union (EIA) (Waste) Regulations SI 505 of 2013.

Section A (below) deals with consultations and observations in respect of developments that require an IPC, IE or Waste licence (or a review of licence) under the EPA Act or the WM Act respectively. Section B deals with consultation and observations as required by the WWDA Regulations.

A. Integrated Pollution Control (IPC), Industrial Emissions (IE) and Waste Licences

1. This section applies to EIA development which requires both a grant of permission from ABPⁱ and an IPC, IE or Waste Licence (or review of licence) from the EPAⁱⁱ. It addresses the following scenarios:

1.1 Applications to EPA for a licence where an EIS is required and an application for permission is currently under consideration by ABP (arising from S.87(1D) EPA Act and S.42(1D) WM Act).

1.2 Applications to EPA for a licence where an EIS is required and an application for permission has been granted by ABP (arising from S.87(1E) EPA Act, S.42(1E) WM Act and S.173A and 173B Planning Act).

1.3 Applications to the EPA for a licence submitted prior to 30 September 2012 where an EIS has been submitted either (a) with the licence application or (b) in response to a request issued by the EPA (arising from S.87(1I) EPA Act / S.42(1I) of the WM Act).

1.4 Applications to ABP for permission that require a licence or review of a licence and are accompanied by an EIS (arising from S.87(1F) of the EPA Act and S.42(1F) of the WM Act).

1.5 EIA Determination: Applications to ABP for permission that require a licence or review of a licence and are not accompanied by an EIS but comprise sub-threshold development (arising from S.87(1G)(b) EPA Act, S.42(1G)(b) WM Act, and S.173A(5) and 173B(5) Planning Act).

2. *Applications to the EPA for a licence where an EIS is required and an application for permission is currently under consideration by ABP.*

The EPA is obliged to notify ABP that it has received an application and to seek general observations within 2 weeks of receipt of the application. It is agreed that ABP will respond within 4 weeks.

3. *Applications to the EPA for a licence where an EIS is required and an application for permission has been granted by ABP.*

The EPA is obliged to notify ABP that it has received an application within 2 weeks of receipt of the application. It is agreed that ABP will respond within 4 weeks:

- (a) stating whether or not the activity to which the application for licence relates is permitted by the grant of permission
- (b) furnishing all documents relating to the EIA carried out by ABP

- (c) setting out general observations that ABP has in relation to the application for a licence.

4. *'On-hand' applications to the EPA for a licence (i.e. submitted prior to 30 September 2012) where an EIS has been submitted.*

It is agreed between the bodies that where the application for permission has been either determined by the Board, is under consideration by the Board, or where the application is of a type that is required to be made directly to the Board, the following will apply:

The EPA shall notify ABP that it has received an application and seek general observations in relation to the application for a licence, including the EIS. Where the Agency requested the EIS under S.87(1I)(b) of the EPA Act/ S.42(1I)(b) of the WM Act, it is agreed that notification will be sent within 2 weeks of receipt of the EIS. It is agreed that ABP will respond within 4 weeks.

5. *Applications to ABP for permission that require a licence or review of licence and are accompanied by an EIS.*

ABP shall notify the EPA that it has received an application and seek general observations, in respect of the EIS insofar as it relates to the activity to be licensed. ABP may also:

- seek confirmation as to whether or not a licence or review of licence is required; and
- if considered necessary, seek the views of the Agency on specific matters in respect of the EIS, insofar as it relates to the activity to be licensed.

It is agreed that the EPA will respond within 4 weeks. The response should include confirmation as to whether or not a licence or review of a licence is required.

Where further information is submitted to ABP during an Oral Hearing, or following a request by ABP, which is considered by ABP to be relevant to the activity to be licensed, it should be furnished to the EPA for observations as soon as possible. It is agreed that the EPA will respond within 3 weeks.

6. *Applications to ABP for permission that require a licence or review of licence and are not accompanied by an EIS (Sub Threshold Development).*

Where ABP:

- (a) receives an application for permission that requires a licence and is sub-threshold for the purposes of EIA (being of a class of development prescribed in the Regulations but does not exceed the quantity, area, or limit prescribed), and
- (b) is required to make a determination as to whether an EIA is required, and
- (c) is of the preliminary view that an EIA is not required,

it shall notify the EPA to this effect and seek the views of the EPA, on matters within the functions of the Agency, in relation to the determination. It is agreed that the EPA will respond within 3 weeks.

7. *Where ABP is considering an application for permission and is requested by the applicant to confirm in writing that a licence is required in respect of the proposed development;*

ABP may request confirmation from the EPA as to whether or not a licence or review of a licence is required. It is agreed that the EPA will respond within 4 weeks.

8. Any request by either body to enter into consultations in relation to any environmental impacts of the proposed development shall be complied with. It is envisaged that such consultations will occur only in exceptional circumstances and shall relate to a specific matter or matters. The consultation shall usually take the form of written correspondence or a minuted meeting. The agreed timeframe for response is 3 weeks.

B. Waste Water Discharge

1. This section deals with consultation and observations as required under Regulation 44(1) of the WWDA Regulations.
2. Where Regulations 41, 42 or 43 of the said Regulations applyⁱⁱⁱ, ABP shall, where it considers that the proposed development is likely to have a significant impact on waste water discharges, request the Agency to make observations in relation to their assessment of the likely impact of the proposed development on waste water discharges. The EPA is obliged to comply with any such request. The agreed timeframe for response is 4 weeks.

3. This is a specific form of consultation and should be referenced as such by ABP when seeking observations. Requests for observations in respect of matters outside of these parameters (e.g. Appropriate Assessment) should not be sought under Regulation 44(1).
4. It is agreed that the nature and scope of observations sought by the ABP should relate to questions that cannot be answered from the information available on the EPA website, in particular the relevant Inspector's Report.

ⁱ Application for permission means applications under the following sections of the Planning and Development Act 2000, as amended:

- S.37 Appeal & SID
- S175 Development by or on behalf of local authorities requiring EIA
- S177E Substitute Consent
- S177AE Development by or on behalf of local authorities requiring Appropriate Assessment
- S181A Development by or on behalf of state authorities requiring EIA
- S182A Electricity Transmission Lines
- S182C Gas Infrastructure
- S226 Development by or on behalf of local authorities on the foreshore.

The definition of "application for permission" omits applications for alterations of permission, approval or other content granted under the 2000 Act (including modification to SID permissions) under S.146B

Act. It is agreed that making a request under S.146B of the Act shall be treated as an application for permission for the purposes of the provisions set out herein.

- ii An application for a licence means an application made to the Agency in respect of the following:
- (a) waste licence under Section 40 of the Waste Management Act 1996, as amended
 - (b) review of a waste licence under Section 46 of the Waste Management Act 1996, as amended
 - (c) IPC or IE licence under Section 83 of the EPA Act 1992, as amended
 - (d) review of an IPC or IE licence under Section 90(1)(b) of the EPA Act 1992, as amended.

iii Note that applications made to ABP under Section 177AE of the Planning & Development Act 2000, as amended (i.e., Appropriate Assessment) are not covered by the Waste Water Discharge Regulations.