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An Bord Pleanála Third Party Appeal

Proposed Plasterboard Manufacturing Plant, GABM Limited, Gorteens, Co. Kilkenny (Reg. 24/60103)

Saint-Gobain Construction Products (Ireland) Ltd.

Prepared by:

SLR Environmental Consulting (Ireland) Ltd 35 Friary Street, Kilkenny, R95 FP62

SLR Project No.: 501.065954.00001

7 March 2025

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1.0 Introduction

SLR Environmental Consulting (Ireland) Ltd. ("SLR") with a postal address of 35 Friary Street, Kilkenny, R95 FP62 are the agent acting on behalf of Saint-Gobain Construction Products (Ireland) Ltd. ("SGCPI") with a registered address of 4 Kilcarbery Business Park, Nangor Road, Clondalkin, Dublin 22.

SLR have been asked by SGCPI to prepare a third-party appeal against Kilkenny County Council's ("KCC") decision to grant planning application number Reg. Ref. 24/60103.

This appeal is against GABM Limited's (the "Applicant") proposed plasterboard manufacturing plant at Gorteens, Co. Kilkenny.

A copy Kilkenny County Council's acknowledgment of SGCPI's observation made under Reg. Ref. 24/60103 is provided in Appendix A.

SGCPI would be a potential competitor to any new plasterboard manufacturer on the island of Ireland, and this should be noted with this appeal. SGCPI firmly believe that competition is good for the consumer.

2.0 Proposed Development

The Applicant proposes to develop a plasterboard manufacturing plant, a waste gypsum plant, a site access road, infrastructure and associated works at their site in Gorteens, Co. Kilkenny.

3.0 Grounds of the Appeal

The key consideration for the appeal is that there has been a flawed assessment in concluding that the facility proposed does not require an EPA licence for its gypsum and waste processing activities.

The Applicant is proposing to import raw gypsum from abroad (Southern Spain/Northern Africa). The volume of proposed imported gypsum is said to be 195,000 tonnes per annum (ref. Section 14.4 of the EIAR¹). The Applicant will process (calcine) the raw gypsum at the application site. The Applicant is furthermore proposing to process 25,000 tonnes per year of gypsum waste.

In Ireland gypsum is defined as a scheduled mineral². Processing of gypsum is an integrated pollution control EPA licensable activity where the level of activity exceeds certain thresholds under Class 1.3 (b) of the EPA Act 1992, as amended ("the EPA Act"). The EPA Act describes processing as including size reduction, grading and heating of the mineral.

The Applicant has included self-assessment of EPA licencing requirements in Section 1.4.1 of the EIAR and stated the following:

"The Proposed Development will not require an Industrial Emissions Licence (IEL) from the Environmental Protection Agency (EPA) as it will process a maximum of 195,000 tonnes per annum which is below the threshold of 200,000 tonnes per annum:

The Applicant goes on to quote the relevant section of the EPA Act Schedule:

² Minerals Development Acts 1940 – 1999. To avoid ambiguity, the Minerals Development Act 2017 at the time of writing of this appeal is not yet commenced, it therefore cannot be considered with the other Acts.



¹ Environmental Impact Assessment Report (EIAR) Volume 2, Proposed Plasterboard Manufacturing Plant, GABM Limited, Gorteens, Co. Kilkenny, Malone O'Regan Environmental, 1st March 2024.

"1 Minerals and Other Materials

- 1.3 The extraction and processing (including size reduction, grading and heating) of minerals within the meaning of the Minerals Development Acts 1940 to 1999, where an activity involves—
- (a) a metalliferous operation, or
- (b) any other operation where either the level of extracted or processed minerals is greater than 200,000 tonnes per annum or the total operational yield is greater than 1,000,000 tonnes,

and storage of related mineral waste."3

The Applicant proposes no closure date for the development in their planning application or in information submitted to Kilkenny County Councils' Request for Further Information ("RFI"), and so it is assumed that the proposed development is intended to continue in perpetuity. SGCPI's own processing facility has operated for almost 90 years to date.

Therefore, it can be reasonably expected that the development will exceed a total operational yield of more than 1,000,000 tonnes of gypsum. It would reach this trigger point within five and a half years of operation and as such the initial assessment should have concluded that an EPA licence is required for the development.

During the public submission round, SGCPI made a submission to Kilkenny County Council (Appendix B) which queried this assessment by the Applicant. SGCPI's own gypsum processing operation is the only current gypsum processing operation in the country, and it is an EPA licenced operation.

It would seem logical that the standards of control and licencing for a new plasterboard factory of equivalent scale (with respect to EPA Scheduled Activity trigger levels) should be the same as those required for any existing such development.

Kilkenny Council sought further information from the Applicant on 25th April 2024 and the first question asked was:

"The Applicant is requested to submit a declaration to the EPA to determine if an IPC/IE
or Waste License is required. A copy of the declaration that is submitted to the EPA
along with the response received from the EPA shall be submitted to Kilkenny County
Council for review."

The Applicant submitted their RFI response in December 2024 and included evidence of emails exchanged with the EPA and the formal Article 11 declaration (dated 1st October 2024) received from the EPA as Appendix 1 to the RFI response. However, a copy of the original Article 11 request sent to the EPA by the Applicant does not appear to have been included in Appendix 1.

From a review of the submission (Appendix 1 in the RFI response document), it appears that the EPA has not considered the licence requirements under Class 1.3 (b) and has only considered the requirement for a waste licence triggered by the proposed recycled waste gypsum activity. This development proposes to process ca. 25,000 tonnes of waste per annum.

The EPA state that their Article 11 determination (included in Appendix C to this appeal) has been made contingent on:

³ To note, the Mineral Development Acts 1940 – 1999 do not use either of the terms "extraction" or "processing".



- "- the activity consists of recovery of inert waste arising from construction and demolition activity;
- the annual intake shall not exceed 50,000 tonnes;
- residual waste consigned from the facility for disposal shall be less than 15% of the annual waste intake at the facility."

It does not appear that the EPA have advised on the processing of more than 1,000,000 tonnes of gypsum over the operational life of the development.

In addition to being asked to consider the 25,000 tonnes of recycled waste gypsum, the EPA should have been specifically requested to determine if the processing of more than 1,000,000 tonnes of gypsum over the life of the development is a licensable activity under Class 1.3 (b).

When considered in isolation, it does appear that the development proposed is licensable under Class 1.3 (b) of the EPA Act and requires an Integrated Pollution Control Licence ("IPCL") from the EPA.

As the Applicant is also proposing to recycle waste gypsum, the EPA should also be asked to consider if this additional activity should then be considered licensable under Class 11.1:

"11.1 The recovery or disposal of waste in a facility, within the meaning of the Act of 1996, which facility is connected or associated with another activity specified in this Schedule in respect of which a licence or revised licence under Part IV is in force or in respect of which a licence under the said Part is or will be required."

It is required by the EPA Act that if the facility is already carrying out an IPCL activity, then the class of licence required with the addition of a Class 11.1 activity is an Industrial Emissions Licence ("IEL").

It is reasonable to expect that for a development of this nature and activity level an EPA IEL is required.

Worthy of further consideration is that where a proposed development facility requires an EPA licence, the Planning and Development Regulation 2001 (as amended) requires that the public planning notices reference this. The planning notices published by the developer did not indicate this requirement.

The planning conditions imposed by Kilkenny County Council acknowledge doubt as to the EPA licencing requirements and seek to introduce a "backstop" arrangement in Conditions 5 and 7 to allow some form of retrospective determination of any EPA licencing.

Kilkenny County Council may have erred in granting permission to a development that has not made the correct public notices regarding the requirement for an EPA licence at the outset.

4.0 Conclusion

IEL is the long-established EPA oversight standard for the operation of the only Plasterboard Manufacturing Facility in Ireland which is of a comparable scale to that proposed in this development. It would appear logical and consistent that the equivalent standard with respect to environmental control and licencing that is applied to existing facilities should also be applied to new facilities.

It is imperative that the EPA assesses the proposed development as a potential Class 1.3 (b) activity first and then under Class 11.1 as warranted.

SGCPI's gypsum processing facility is licenced under both Class 1.3 (b) and Class 11.1 of the EPA Act because it processes raw gypsum and recycles waste plasterboard.

SGCPI recognises that the development would increase competition in the Irish market and welcomes competition.



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SGCPI's only concern in this matter is that of sustainable development and the principal that the standard of environmental control and licencing developed over many years of operation, should be at the same standard for all equivalent activities. All industry players should be required to meet the same environmental standards of control and licencing in the interests of sustainable development.

SGCPI declares that it will withdraw this appeal if it receives satisfactory and enforceable declarations that the standards of environmental oversight and licencing that apply to existing plasterboard manufacturing operations in the state that have been developed over a period of almost 90 years will also be put in place prior to the commencement of the proposed development.



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Appendix A

Acknowledgment by Kilkenny County Council of Saint-Gobain Construction Products (Ireland) Ltd. observation made under Reg. Ref. 24/60103



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Comhairle Chontae Chill Chainnigh

Halla an Chontae Sraid Eoin Cill Chainnigh R95 A39T Kilkenny County Council

County Hall John Street Kilkenny R95 A39T



Pobail agus Áiteanna Inbhuanaithe a Chruthú

Ref:24/60103

reating Sustainable Communities and Plac

02/04/2024

Saint-Gobain Construction Products (Ireland) Ltd. C/o Hannah McGillycuddy, SLR Environmental Consulting (Ireland) Ltd 35 Friary Street,

Kilkenny. R95 FP62

Applicant: Address:

GABM Limited

Gavin Lonergan

3-4 Canada Street, Waterford, X91 V52K

A Chara,

I refer to your submission/observation received from you on 02/04/2024 in connection with planning application by GABM Limited for PERMISSION for development on lands with a site area of approximately 11.57ha located at Gorteens, Co. Kilkenny. The development will consist of the construction of an integrated plasterboard manufacturing facility, incorporating a production plant with access from the industrial area road infrastructure at Gorteens, Co. Kilkenny.

The production facility will have a floor area of 22,400 sq.m, with a height over finished ground level ranging from 19metres to 29metres. Roof mounted solar panels are proposed. The proposed development includes all site development works, landscaping, boundary treatments including earthworks, road works, retaining walls, vehicle entrance, vehicle parking with charging (HGV, cars and bicycles/scooters), gates, fencing, paving, water storage tanks, drainage and lighting. Planted berms are proposed within and along the perimeters of the development site. The development will include for extraction of groundwater for production process purposes. Servicing arrangements include the provision of a constructed surface water attenuation area. Access to connect to the public foul network and to mains water supply is proposed. The application will be accompanied by an Environmental Impact Assessment Report (EIAR) and by a Natura Impact Statement (NIS). at Gorteens Slieverue Co. Kilkenny.

The matters referred to by you will be taken into consideration by the Council before a decision is made on the application. Notice of the Council's decision on the application will be given in accordance with the requirements of the Planning & Development Regulations, 2001 as amended.

This is an important document.

You should retain this letter of acknowledgement as proof that you made a valid submission/observation which is a requirement in the event that you appeal a decision on this application to An Bord Pleanala.



Comhairle Chontae Chill Chainnigh

Halla an Chontae Sraid Eoin Cill Chainnigh R95 **A39**T

Poball agus Aiteanna Inbhuanaithe a Chruthú

The appropriate fee of €20.00 has been paid.

Mise, le meas

Milan (

Úna Kealy Administrative Officer Planning Section

Tel no. Planning Section: 056-7794010

Kilkenny County Council

County Hall John Street Ki kenny R95 A 39T



Creating Sustainable Communities and Place



Appendix B Copy of SGCPI's observation made under Reg. Ref. 24/60103



SLR Environmental Consulting (Ireland) Ltd



2 April 2024

Attention: Mr. Edwin O'Meara, Kilkenny County Council,

Planning Department,

County Hall,

John Street.

Kilkenny R95 A39T.

RE: Observation: Kilkenny County Council Planning Application 24/60103: Development of a Plasterboard Manufacturing Facility and all associated works, Gorteens, Co. Kilkenny

Dear Mr. O'Meara.

SLR Environmental Consulting (Ireland) Ltd. ("SLR"), 35 Friary Street, Kilkenny R95 FP62, have been retained as an agent by Saint-Gobain Construction Products (Ireland) Ltd. ("SGCPI") to submit an observation for planning application Reg. Ref. 24/60103 to Kilkenny County Council.

The development proposes a new plasterboard manufacturing facility to be supplied by imported gypsum from Spain/Northern Africa and recycled plasterboard material from the Irish market.

SGCPI would be a potential competitor to any new plasterboard manufacturer on the island of Ireland, and this should be noted with this observation. SGCPI firmly believe that competition is good for the consumer.

SGCPI operates an existing plasterboard manufacturing facility that is required to be licenced by the EPA Act 1992, and operate a scheme of monitoring and mitigation at their manufacturing facility for the protection of receptors that Kilkenny County Council may wish to consider for any similar facility.

In relation to Reg. Ref. 24/60103, there is concern around the interpretation the applicant has made regarding the requirement for an EPA licence and the extent of environmental control surrounding such a development. Given the lack of other such facilities in the country, it is considered that SGCPI's operation offers the only insight into the existing regulatory regime for such a facility.

For the SGCPI gypsum processing facility, dust, noise, odour, water and community engagement are at the forefront of the EPA licence under which the plant operates. Preparation for the closure of the facility is also covered in the licence.

Section 1.4.2 of the submitted EIAR (E2077 – Malone O'Regan Environmental – FINAL) for Reg. Ref. 24/60103 states that an Industrial Emission licence is not required as the proposed facility will process less than the 200,000 tonnes per annum; threshold from Class 1.3 (b) of the Schedule of the EPA Act.

However, as stated in the applicant's EIAR, Class 1.3(b) also refers to a second threshold – where the total operational yield is greater than 1,000,000 tonnes.

The applicant's EIAR indicates there is no closure foreseen or closure plan proposed for the facility and as such the total operational yield is effectively unlimited and will be expected to exceed 1,000,000 tonnes within five and a half years.



There is also a concern regarding the interpretation of the requirement for a Waste Licence for the proposed development.

SGCPI are licenced under Class 1.3(b) for mineral processing with SGCPI's EPA licence also containing reference to the intake of waste plasterboard as a Class 11.1 licenced activity as follows:

"The recovery or disposal of waste in a facility, within the meaning of the Act of 1996, which facility is connected or associated with another activity specified in this Schedule in respect of which a licence or revised licence under Part IV is in force or in respect of which a licence under the said Part is or will be required." [emphasis added]

The effect of this (in the case of SGCPI) is that the EPA (rather than the local authority) are the body who are required to grant permission for a gypsum waste recycling activity and in so doing have applied a limit to the quantity of waste plasterboard that can be imported to the site for recycling.

It is worth noting that SGCPI maintain a costed Closure, Restoration and Aftercare Management Plan (CRAMP) for their manufacturing facility in place with the EPA, who hold access to substantial bonds and funds in the event the CRAMP must be implemented. Scenarios such as the unforeseen or early closure of the manufacturing facility are provisioned for in SGCPI'S CRAMP.

Regards,

SLR Environmental Consulting (Ireland) Ltd

Hannah McGillycuddy Environmental Geologist – Mining Advisory

Email: hmcgillycuddy@slrconsulting.com

Barry Balding

Technical Director - Mining Advisory Europe

Email: bbalding@slrconsulting.com





Appendix C Article 11 Determination from the EPA



Ms. Laura Fitzpatrick
Malone O'Regan Environmental Services Limited
Ground Floor - Unit 3 Bracken Business Park
Sandyford
Dublin
Co. Dublin

01 October 2024

Article 11 No: 2814

Headquarters, PO Box 3000 Johnstown Castle Estate Co Wexford, Y35 W821, Ireland

mental Protection Agency

Ceannchethrú, Bosca Poist 3000 Eastát Chaisleán Bhaile Sheáin Contae Loch Gharman, Y35 W821, Éire

T: +353 53 916 0600 F: +353 53 916 0699 E: info@epa.ie

Re: Article 11 Declaration

Dear Ms. Fitzpatrick

The Agency has reviewed your Article 11 Request, which was received on 16 September 2024, and, based on the information provided, advises as follows:

The Agency has determined that a Waste Facility Permit is required under Class 7 of Part I of the Third Schedule of the Waste Management (Facility Permit & Registration) Regulations 2007, as amended. This determination is contingent on:

- the activity consists of recovery of inert waste arising from construction and demolition activity;
- the annual intake shall not exceed 50,000 tonnes;
- residual waste consigned from the facility for disposal shall be less than 15% of the annual waste intake at the facility.

Please be aware that the waste will remain classified as a waste until such a time as end-of-waste status has been achieved, where required. In this regard the Agency would like to draw your attention to Regulation 28(4) of the European Union (Waste Directive) Regulations 2011 - 2020.

Further information and detailed guidance on end-of-waste is available at the following link: https://www.epa.ie/our-services/licensing/waste/end-of-waste-art-28

We trust this advice assists.

Yours faithfully

Jennifer Cope Article 11 Circular Economy Programme Office of Environmental Sustainability

cc Director of Services, Environment Section, Kilkenny County Council

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