

Public Interest Test – EIR

Reference Number – DAERA/26-468

Requested Information

In relation to WML 22/59 Regen Waste Limited, Warrenpoint Harbour, which sought:

Item 1 — Bale height and CAR1 inspection

Question put to WHA: Is WHA aware that NIEA's CAR1 inspection recorded bales at 8 bales in height on the harbour estate, against the 5-metre Required Practice Standard (RPS) limit?

WHA's answer: NIEA is the statutory regulator and does not issue CAR Reports to WHA. NIEA routinely confirm that they believe WHA's tenants to be compliant. NIEA is the statutory regulator for waste licensing compliance, and WHA expects its tenant to comply with all applicable regulatory requirements.

The information now requested from NIEA is:

- (a) a copy of the CAR1 inspection report(s) for the Warrenpoint harbour estate for the period 1 January 2026 to date, including the inspection that recorded stored bale heights;
- (b) all records of bale heights recorded by NIEA at the estate, and any recorded exceedance of the 5-metre RPS limit;
- (c) any enforcement, warning, advisory or improvement action taken by NIEA in relation to bale height or stack configuration at the estate;
- (d) copies of the confirmations by NIEA to WHA that its tenant is compliant (the assurances WHA describes as given 'routinely'), with dates.

Item 2 — Licensed tonnage limit and reconciliation

Question put to WHA: How does the Authority measure and record the quantity of RDF/SRF held on the Port estate, and how is that reconciled against the licensed tonnage limit? (John Kerr, Q1 and Q9)

WHA's answer: NIEA is the statutory regulator for waste-licence compliance, including tonnage limits. WHA expects the operator to comply with all applicable licence conditions and engages with NIEA where required. Compliance with the tonnage limit is the operator's responsibility and is regulated by NIEA.

The information now requested from NIEA is:

- (a) the maximum tonnage of RDF/SRF permitted to be stored under the waste authorisation governing the Warrenpoint harbour estate;
- (b) how, and how frequently, NIEA verifies the quantity actually stored against that permitted limit;

- (c) any records held or obtained by NIEA of the tonnage actually stored at the estate over the past 24 months;
- (d) any record of the licensed tonnage limit being exceeded, and any action taken.

Item 3 — Financial bond and orphan-waste liability

Question put to WHA: In the event of operator insolvency or abandonment, who is responsible for removal and disposal of the stored waste, and is any financial provision or bond held? (John Kerr, Q3)

WHA's answer: The financial bond is a matter between NIEA and the Operator. WHA does not hold that bond and is not responsible for setting its amount or calculation basis. Responsibility for removal and lawful disposal would depend on the waste licence, the bond arrangements, the Operator's legal obligations, NIEA's regulatory powers, WHA's contractual position and legal advice at the time.

The information now requested from NIEA is:

- (a) whether any financial provision, bond or guarantee is held in respect of the waste stored at the Warrenpoint harbour estate; if so, by whom it is held and in what amount;
- (b) the basis on which that provision was calculated (in particular whether it reflects the open-market cost of clearing and disposing of the full permitted tonnage);
- (c) whether the provision would cover disposal of fire-damaged or degraded material that is no longer a saleable fuel;
- (d) all correspondence between NIEA and the operator concerning the bond or financial provision since 1 January 2025.

Item 4 — Cypermethrin: sampling and regulatory status

Question put to WHA: Has WHA, the Loughs Agency, or NIEA taken any water or sediment samples from Carlingford Lough adjacent to the harbour to test for cypermethrin residues — and if not, why not? (Rotten to the Point, Q9; see also Q7 and Q14)

WHA's answer: WHA cannot answer on behalf of NIEA or the Loughs Agency. NIEA is the relevant environmental regulator, and the operator is responsible for the safe use of insecticide on site. [Q14] That is an operational matter for the NIEA licensee.

The information now requested from NIEA is:

- (a) whether NIEA has taken any water or sediment samples from Carlingford Lough adjacent to the harbour to test for cypermethrin (or other synthetic pyrethroid) residues; if so, the results and dates; if not, confirmation that none have been taken;
- (b) NIEA's records of the cypermethrin product in use at the site, its approval status under the Biocidal Products Regulation, and the basis on which outdoor

fogging is regarded as lawful (noting the recorded revocation with expiry for use of 31 May 2021 and indoor-use-only approval);

- (c) any assessment made by NIEA of drift or run-off of cypermethrin into Carlingford Lough from the quayside;
- (d) all records of pesticide or biocide application at the harbour estate held by NIEA for the past 24 months.

Item 5 — Carlingford Lough: competent-authority assessment

Question put to WHA: As a competent authority, has the risk that a fire or leachate escape could damage the protected site been assessed, and what is the residual liability under the Environmental Liability Regulations (NI) 2009 if the operator cannot meet remediation costs? (John Kerr, Q8)

WHA's answer: WHA recognises the environmental importance of Carlingford Lough and takes its responsibilities seriously. The established environmental principle is that the operator responsible for an activity is primarily responsible for managing and meeting the costs of any environmental impact arising from it. NIEA is the relevant environmental regulator.

The information now requested from NIEA is:

- (a) any assessment by NIEA of the risk that a fire, leachate or contaminated-firewater escape from the stored waste could damage the Carlingford Lough SPA / Ramsar site / ASSI;
- (b) any assessment under the Conservation (Natural Habitats, etc.) Regulations (NI) 1995 relating to the storage;
- (c) NIEA's assessment of residual liability under the Environmental Liability Regulations (NI) 2009 in the event the operator cannot meet remediation costs;
- (d) any correspondence between NIEA and the Loughs Agency or NIEA and WHA concerning environmental risk to the Lough from the storage.

Item 6 — Fire prevention plan held under the Waste Management Licence

Question put to WHA: Has the Authority obtained the operator's fire prevention plan and fire risk assessment for the stored material? (John Kerr, Q5 and Q6)

WHA's answer: WHA assesses fire and operational risk as part of its oversight... However, the operator is responsible for maintaining appropriate fire prevention, emergency response and regulatory compliance arrangements in accordance with its Waste Management Licence.

The information now requested from NIEA is:

- (a) a copy of the operator's fire prevention plan and supporting fire risk assessment for the stored RDF/SRF, as held by NIEA on the Waste Management Licence file;
- (b) any NIEA correspondence, inspection note or advice concerning self-heating, fire risk or firewater management at the Warrenpoint estate since 1 January 2025.

Item 7 — Environmental remediation cost recovery (DAERA/26-295)

Question put to WHA: DAERA has withheld information relating to 'environmental remediation cost recovery' at the Port on commercial confidentiality grounds. Will WHA confirm whether any financial provision, bond or escrow is held against remediation costs, and disclose its value? (Anne Blaney / RTTP, Q15; ref DAERA EIR refusal DAERA/26-295, regulation 12(5)(e))

WHA's answer: It would not be appropriate to discuss financial provisions, bonds, escrow arrangements, remediation cost recovery or monetary values... Any financial provision required under the waste licensing regime is a matter for the operator and the environmental regulator. WHA's position is that Re-Gen is responsible for its own operations.

The information now requested from NIEA is:

- (a) confirmation whether any financial provision, bond or escrow is held against environmental remediation costs arising from waste storage at the Port, and its value (see also Item 3 above);
- (b) a fresh consideration of the information withheld under DAERA/26-295, applying the regulation 12(2) presumption in favour of disclosure and having regard to Decision Notice IC-393464-G2Y2;
- (c) the public-interest balancing exercise carried out when regulation 12(5)(e) was applied to the 'environmental remediation cost recovery' information;
- (d) all correspondence between DAERA / NIEA and Re-Gen Waste Ltd or WHA concerning remediation cost recovery or financial provision since 1 January 2023.

Exemption / Exception under consideration

Regulation 12 (4) (b), Manifestly unreasonable request.

Reasons why the public interest would favour disclosure:

- Greater understanding of local environmental issues.
- More effective public participation.
- Promote transparency.

Reasons why the public interest would favour withholding:

- Puts the Department under a burden of excessive work.
- Puts a strain on the resources available to the Department.
- Detracts Department officers from the regulation work that still needs to be carried out.
- Complying with the volume of information requested would apply an unjustified level of disruption to staff already working in difficult circumstances due to already busy workloads.
- Compiling, reviewing, and redacting all responsive records would require a disproportionate amount of staff time and resources, diverting NIEA from its core regulatory and compliance duties.

Conclusion

Following consideration of the Public Interest Test, the Department has decided that it would not be in the public interest to fulfil the request made by the requestor.

The Department considers this to be manifestly unreasonable based on the cost and burden of dealing with the request and consequent diversion of resources in dealing with this query.

[REDACTED]

NIEA Waste Industrial Pollution, Regulation and Enforcement Unit

