

Compliance Assessment Report CAR_NRW0037025

Permit being assessed: FP3238SL.

For: Lamby Way Generation Plant EPR/FP3238SL, held by Novera Energy Generation No 2 Limited

At: Lamby Way Landfill Site Lamby Way , Rumney, Cardiff, CF3 2HP.

Type of assessment carried out: Site Inspection, Reason: Routine.

On 12/10/2020 between 10:00 and 11:30.

Parts of permit assessed: Flaring

NRW Lead Officer: Andi Kemp.

Report sent to: Kate Philips, Compliance Engineer on 13/10/2020.

1. Summary of our findings (full details in section 4)

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
A1 - Specified by permit	Assessed (A)	

Result types are explained in more detail in the 'Important Information' section below.

Total number of non-compliances recorded	Total non-compliance score
0	0

How we use the non-compliance score to calculate your annual fee is explained in the 'Important Information' section below.

2. What action is required?

No action required.

3. What will happen next?

Any non-compliance we have identified and recorded on this form is an offence. It can result in criminal prosecution and/or suspension or revocation of your permit.

You are non-compliant with your permit.

At this time, we are issuing you with a warning for the non-compliance recorded above. Warnings may influence future enforcement response for continued or further non-compliance.

This statement does not stop us from taking additional enforcement action if further relevant information comes to light or offences continue.

4. Details of our assessment

Purpose Of Compliance Assessment

There have been contractual issues between Infinis and the local authority (Cardiff) with regard to gas utilisation at Lamby Way landfill (and Ferry Road landfill). A telecon took place on the 30th September 2020, between Infinis, the LA and NRW, the regulator. The Environmental Permitting Regulations situation is that the main landfill permit (Cardiff LA) includes, as a directly associated activity, flaring. The gas utilisation plant, including flaring, is a separate permit issued to Infinis. The Landfill Directive has a hierarchy for landfill gas: gas utilisation (combusted through engines to generate electricity), then flaring, if economically and technically not feasible to burn through engines. At this site, the gas production curve suggests a good supply of gas for at least 20 years and the infrastructure, gas extraction and generation are indeed both economically and technically feasible. The LfD or EPR does not provide for contractual disputes - therefore the regulator takes a dim view of the current situation.

Infinis have indicated (telecon 30th Sep. 2020) that they intend to surrender the GUP permit. It would have been more straightforward to transfer the permit to a third party or indeed to the LA if they decide to regain control of this crucial aspect of the landfill aftercare. Surrendering the EPR permit is a process in itself and guidance (including the application forms and Charging Scheme) are available on the NRW website. There will be a responsibility on the current holder to ensure at the time of surrender, that the state of the site footprint (soil and groundwater) are in no worse condition than at the time of permit application and determination.

Until such time as a permit surrender application is favourably determined, Infinis remain responsible for the safe operations at the Lamby Way GUP - particularly with regard to flare operations, including: safe combustion, emission limits, maintenance and repair, incident response, explosive atmospheres, re-ignition etc.

Andi Kemp (Senior Officer Industry Regulation) will be consulting with NRW Legal Team on the issue of the locked gas compound. Notwithstanding that actual position, it is eminently sensible that the LA have access to the compound and the flares as they proceed with engaging a new contractor for gas extraction and utilisation. The LA have a responsibility to protect their staff and members of the public. Infinis must be able to respond to any incident in a timely manner and advise the LA, so they can take the necessary precautions on their overall site.

Action 1 Infinis 13th October 2020: *Infinis to provide in writing (email or letter) how they intend to manage the flaring; including details of what critical operating parameters are monitored / recorded and how; and whether physical attendance will take place, aside from emergency response. Will Infinis staff still be carrying out gas field balancing operations until the actual handover?* **Due: 31st October 2020.**

END

If you have any queries about this report, or to discuss completion of any actions, please contact the NRW Officer named above.

Important information

Legal status of this report

Your permit is issued to you under the Environmental Permitting Regulations. You have a responsibility to comply with the conditions of your permit and prevent pollution/harm of the environment. You must also ensure that you comply with any other relevant legislation that may apply to your site's operations.

This report explains the findings of our assessment and any action you are required to take. We categorise non-compliance using our guidance for assessing non-compliance at regulated sites.

When we find potential non-compliance/s we will normally give you advice on how to maintain compliance.

To correct non-compliance, we may:

- require you to take specific actions
- issue a notice
- review the conditions of your permit.

Any advice and guidance we give will be without prejudice to any other enforcement response that we consider may be required.

Assessment results and non-compliance categories (used in section 1):

Assessment result	Description
Assessed (A)	Assessed or assessed in part, no evidence of non-compliance found
Action only (X)	Action only relating to the activity assessment
Ongoing (O)	Ongoing non-compliance, not scored

Non-compliance category	Description	Score
C1 Major	Potential to have a major, serious, persistent and/or extensive impact or effect on the environment, people and/or property	60
C2 Significant	Potential to have a significant impact or effect on the environment, people and/or property	31
C3 Minor	Potential to have a minor or minimal impact or effect on the environment, people and/or property	4
C4 No environmental impact	Non-compliance at a regulated site that cannot foreseeably have any impact on the environment, people and/or property	0.1

How we use assessment scores

The number and severity of non-compliances recorded in a year will affect your annual subsistence fee the following year. A non-compliance factor is added to your site's Operator

Performance Risk Appraisal (OPRA) score when we calculate your fee to reflect the additional resource we use to assess permit compliance.

What are suspended scores?

In line with our guidance, we may suspend scores for up to six months to allow time for remedial action to be taken. Suspended scores will be re-instated if the action is not completed.

Full list of Industry and Waste action criteria (used in section 1 and 2):

A: Permitted activities

- A1 Specified by permit

B: Infrastructure

- B1 Infrastructure – Engineering for prevention and control of emissions
- B2 Infrastructure – Closure and decommissioning
- B3 Infrastructure – Site drainage engineering (clean and foul)
- B4 Infrastructure – Containment of stored materials
- B5 Infrastructure – Plant and equipment

C: General management

- C1 General management – Staff competency/training
- C2 General management – Management system and operating procedures
- C3 General management – Materials acceptance
- C4 General management – Storage, handling, labelling and segregation

D: Incident management

- D1 Incident management – Site security
- D2 Incident management – Accidents, emergency and incident planning

E: Emissions

- E1 Emissions – Air
- E2 Emissions – Land and groundwater
- E3 Emissions – Surface water
- E4 Emissions – Sewer
- E5 Emissions – Waste

F: Amenity

- F1 Amenity – Odour
- F2 Amenity – Noise
- F3 Amenity – Dust/fibres/particulates and litter
- F4 Amenity – Pests/birds and scavengers
- F5 Amenity – Deposits on road

G: Monitoring and records, maintenance and reporting

- G1 Monitoring and records, maintenance and reporting – Monitoring of emissions and environment
- G2 Monitoring and records, maintenance and reporting – Records of activity, site diary/journal/events
- G3 Monitoring and records, maintenance and reporting – Maintenance records
- G4 Monitoring and records, maintenance and reporting – Reporting and notification to Natural Resources Wales

H: Resources efficiency

- H1 Resource efficiency – Efficient use of raw materials
- H2 Resource efficiency – Energy efficiency

Enforcement response

Any permit condition non-compliance is an offence and we may take legal action against you. Action we take can include prosecution, serving a notice on you and/or suspension or revocation of your permit. See our Enforcement and Sanctions Guidance for further information.

Data protection notice

You should make sure that anyone named in this report knows that the information it contains will be processed by Natural Resources Wales to fulfil its regulatory and monitoring functions and to maintain the relevant public register(s).

We may also use and/or disclose the report in connection with:

- offering or providing you with our literature or services relating to environmental matters
- consulting with the public, public bodies and other organisations (e.g. Health and Safety Executive, local authorities) on environmental issues
- carrying out statistical analysis, research and development on environmental issues
- providing public register information to enquirers
- investigating possible breaches of environmental law
- assessing customer service satisfaction and improving our service
- Freedom of Information Act or Environmental Information Regulations requests.

We may also pass it on to our agents or representatives to do these things on our behalf.

Disclosure of information – this report will be available to view on-line

If you think this report contains commercially confidential information that should not be placed on our public register, you must contact your local Natural Resources Wales office within **fifteen working days** of receiving this report, using the contact details in the accompanying email or letter. You must give a full explanation of why it should not be added to our public register, including specifying which information is commercially confidential. We will assess your request and respond to you within 20 working days to let you know if we agree to your request.

What do I do if I disagree with the report or have a complaint?

If you disagree with this compliance assessment report, you should contact the lead officer without delay to discuss your concerns.

If you are unable to resolve the issue with the lead officer or their line manager you should contact our Customer Contact team on 0300 065 3000 (Monday to Friday 08:00 – 18:00), or email enquiries@naturalresourceswales.gov.uk for details of how to raise your dispute further through our Complaints and Commendations procedure.

If you are dissatisfied with our response, you can contact the Public Services Ombudsman for Wales by phone on 0300 7900203 or by email at ask@ombudsman.wales

Welsh Language Standards

We are committed to establishing Natural Resources Wales as a naturally bilingual organisation. We will provide compliance reports in your preferred language.