



An
Bord
Pleanála

Inspector's Report

PL19.245295A.

Development	Extension of the continued use and operation until the end of 2030 of previously permitted peat and biomass co-fired power plant currently existing.
Location	Ballykilleen, Edenderry, Co. Offaly.
Planning Authority	Offaly County Council.
Planning Authority Reg. Ref.	15/129.
Applicant(s)	Edenderry Power Limited.
Type of Application	Permission.
Planning Authority Decision	Grant permission with conditions.
Type of Appeal	Third Party.
Appellant(s)	1. An Taisce. 2. Friends of the Irish Environment.
Observer(s)	Mr Michael Hoey.
Date of Site Inspection	20 th December 2015, 27 th January 2016 and 1 st November 2016.
Inspector	Derek Daly.

1.0 INTRODUCTION.

1.1 I initially wish to refer to my report dated the 25th of February 2016 in relation to the current proposal for an extension of the continued use and operation until the end of 2030 of previously permitted peat and biomass co-fired power plant currently existing at Ballykilleen, Edenderry, Co. Offaly. The documentation submitted with the application include an Environmental Impact Statement and Natura Impact Statement.

1.2 The report considered the documentation and submissions. The report concluded that, “on the basis of the information available; documentation submitted in particular in relation to all of the peat bogs identified as servicing the power plant, the absence of a satisfactory level of information in relation to identification and screening of sites relating to the commercial extraction of peat and the absence of a proven identifiable link to European sites that either individually or in combination with other plans or projects, it could not exclude the possibility that the development would not adversely affect the integrity of the any European site in view of the site’s conservation objectives for such sites” and “are not satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on a European Site, in view of the site’s Conservation Objectives”.

The basis of this conclusion arose from an evaluation of the Stage 1 screening report which considered that there was an absence of a stage 1 screening in relation to 27% of bogs identified as sources of milled peat to the power station and an absence of a satisfactory appraisal and assessment as to whether the project is likely to have a significant effect, either individually or in combination with other plans and projects, on the European site(s) in view of the site’s conservation objectives for all of the bogs identified as a source of milled peat to the Edenderry Power Plant.

The issue of the harvesting bogs arises from the decision of the High Court *An Taisce v An Bord Pleanála* (2014 No. 38 J.R.) that in the interests of completing the appropriate assessment of the current proposal that more complete information be submitted encompassing all the peat harvesting area supplying Edenderry Power Station in relation to Appropriate Assessment.

1.3 On the 24th of June 2016 the Board in accordance with Section 132 required further information to be submitted including a revised Appropriate Assessment Screening Report encompassing all the peat harvesting area supplying Edenderry Power Station. If the revised screening identified that significant effects on any Natura 2000 sites are likely a revised Natura Impact Statement was also required.

1.4 On the 8th of July 2016 the applicant submitted a revised Appropriate Assessment Screening Report and a revised Natura Impact Statement (NIS)

which assesses the continued use and operation of Edenderry Power Plant (EPP) including the harvesting and supply of peat to EPP.

- 1.5 The Board circulated the response to other parties and statutory bodies and revised notices in respect of the response were published.

2.0 APPLICANT SUBMISSION.

- 2.1 On the 8th of July 2016 the applicant submitted a revised Appropriate Assessment Screening Report and a revised NIS.

2.2 Revised Screening for Appropriate Assessment.

- 2.2.1 Section 2 of the revised Screening for Appropriate Assessment report outlines the current processes of the plant and section 2.2 specifically refers to peat harvesting and supply to the Edenderry Power Plant. It is indicated that peat which is milled peat is currently and will continue to be sourced exclusively from those bogs listed under IPC (Integrated Pollution and Control) licence Registration Numbers P0501-01 (Derrygreenagh Group) and P0503-01 (Allen Group). The bogs in question are mapped and indicated in appendix A. Table 2.1 indicates the peat bogs to be harvested to supply peat fuel to EPP to 2030 including when harvesting commenced and the area of the individual bogs within the two groups. The process of harvesting peat is also described.

- 2.2.2 Section 3 of the revised screening report relates to elements of the project with potential for having significant environmental effects. Section 3.2 considers Edenderry Power Plant on its own and section 3.3 considers the harvesting and supply of peat fuel to Edenderry Power Plant.

In relation to the plant it is indicated that it is an existing and established facility and no construction activities are under consideration and therefore it is indicated that there is no potential for direct fragmentation of or damage to habitats or flora of conservation interest associated with its continued use and operation.

Potential effects are identified in relation to noise emissions to cause disturbance to species; that the continued use and operation of Edenderry Power Plant will result in direct atmospheric emissions that can have significant negative effects on vegetation if deposited on leaf surfaces or absorbed through the stoma; that abstraction of water from the Figile River, a tributary of the River Barrow, has the potential to effect flow regimes which can have an effect on the ecology of a river and there is also potential for entrapment of fish during river water abstraction. In relation to groundwater abstraction this has the potential to result in hydrogeological disruption. In relation to wastewater discharges EPP discharges process wastewater to the Figile River so there is potential for to direct effect to water quality.

In relation to the peat harvesting operation it is indicated that all of the bogs that are harvested for supply to Edenderry Power Plant have been identified and assessed and that none of these bogs are located within a Natura 2000 Site. Glashabaun North and Ticknevin bogs are, however, located directly adjacent to Long Derries SAC and part of the rail track that links Ticknevin and Glashabaun North passes through Long Derries SAC and that the existing railway pre-dates the designation of Long Derries as an SAC. There is, the report indicates, therefore, no potential for direct habitat fragmentation within designated areas, associated with the continued harvesting and supply of peat or for significant effects on the conservative objectives of any Natura 2000 Site.

Potential effects are identified in relation to noise emissions to cause disturbance to species; that the production of milled peat has the potential to generate particulate matter which will result in direct atmospheric emissions that can have significant negative effects on vegetation if deposited on leaf surfaces or absorbed through the stoma; in relation to drainage that the drainage of water to facilitate the harvesting of peat may have potential to disrupt flow regimes thereby damaging habitats; that there is also potential for the surface water run-off from the peat production areas to have an effect on water quality by accumulations of silt in downstream areas and by the alteration of water chemistry.

- 2.2.3 Section 4 of the report refers to Natura 2000 sites and the identification of Natura 2000 Sites within the Zone of Influence applying the practice of 15 kilometres as set out in guidance documents. The relevant sites within approximately 15 kilometres of Edenderry Power Plant are identified and detailed in Table 4.1 and sites within approximately 15 kilometres of the bogs that are harvested to supply the plant are also identified and detailed in Table 4.2.

The potential for significant effects on Natura 2000 Sites are considered separately for the continued use and operation of Edenderry Power Plant in section 4.1.1 and the potential for significant effects on Natura 2000 Sites from the continued harvesting and supply of peat fuel to EPP in section 4.1.2. It is also indicated that Natura 2000 Sites which are located outside of the 15 kilometre radius but which are hydrologically connected to the watercourses which receive discharges from EPP, or the bogs that are harvested to supply peat to the power plant, have been included in the screening assessment.

- 2.2.4 In relation to the plant itself effects are considered in section 4.1.1 of the report. In relation to the Long Derries SAC (000925), which is located 4.7 kilometres from the plant it is indicated that there is no direct disturbance to species associated with the continued use and operation of the power plant and there is no potential for direct atmospheric emissions from EPP to have a significant effect on the qualifying features of Long Derries SAC or in relation to atmospheric emissions or water abstraction.

In relation to the River Barrow and River Nore SAC (002162) 14.9km direct distance from the plant and 21.5km along the length of the river, it is indicated that there is a direct hydrological link to the Edenderry Power Plant and, therefore there is potential for direct hydrological impacts. The issue of water abstraction is also considered but given the distance between the plant and the SAC for groundwater abstraction at Edenderry Power Plant it is considered not to have an effect on the qualifying features of the River Barrow and River Nore SAC. In relation to abstraction of river water it is indicated that this has the potential to have a significant effect on flow regimes which can affect the ecology of the river.

The report considers that taking into account the distance, as the river flows; the size of the catchment of the River Barrow and River Nore SAC and the relevant scale of the abstraction (up to 240m³/hr), any abstraction pressure in the Figile River, associated with the abstraction of river water for Edenderry Power Plant, would have a local effect only and would not have a significant effect on the flow regime of the River Barrow and River Nore SAC.

In relation to effects of fish species there is provision for passive intake screens to protect smolts and but as there is significant direct water abstraction this has the potential to have a significant on Natura 2000 sites within the likely zone of Influence of the plant.

In relation to salmonids and considering wastewater discharge, the report indicates that the Figile River is a low grade river with a lack of salmonids which is attributed to a combination of features including low flow and gradient and moderate water quality. The Figile River and its tributaries, however, are noteworthy in light of salmon production in the River Barrow catchment and any impacts on salmon production in this sub-catchment can have an effect on salmon numbers in the main channel of the River Barrow. Potential effects brought about by the continued use and operation of Edenderry Power Plant are considered in the context on the conservation interests of the overall River Barrow and River Nore SAC. It is that discharges can have an adverse effect on population dynamics and the natural range of these aquatic species, including salmon and their habitats where they occur in the Figile River.

The report concludes that the River Barrow and River Nore SAC therefore may be within the likely zone of influence of continued direct wastewater discharges from Edenderry Power Plant.

2.2.5 In relation to the peat harvesting, potential for significant effect is discussed in further detail in Section 4.1.2 with the three SACs considered in sequence.

The Long Derries SAC (000925) due to proximity of harvesting operations, may be within the likely zone of influence of hydrogeological effects. Atmospheric emissions from dust is also identified as a potential impact on the SAC.

The drainage operations, coupled with regular precipitation, have the potential to wash peat from extraction areas to rivers. This deposition may lead to an accumulation of silt in downstream areas with the potential to have an effect on the conservation objectives of downstream Natura 2000 sites. The issue of hydrological links between watercourses and bogs arises. In addition, changes in relation to drainage and water quality may also have effects on fish biomass and could have an effect on species that feed on fish (e.g. otter) if the food supply was affected by water quality.

In relation to River Barrow and River Nore SAC (002162) as there is a hydrological link to the bogs that are harvested it is indicated that there is potential for significant effects from the continued harvesting. In this regard 101km² (73%) of the bogs that supply peat to Edenderry Power Plant are located within the Barrow catchment.

In relation to the River Boyne and River Blackwater SAC (002299), 9.1km direct distance and 16.8km along the length of the river from a harvested bog, as there is a hydrological link it is indicated that there is also potential for significant effects. In this regard approximately 31km² (23%) of the bogs that supply peat to Edenderry Power Plant are located within the Boyne catchment.

Other SACs were examined and due to the separation distance and absence of hydrological connectivity it is indicated there is no potential for significant environmental effects. The NATURA 2000 sites referred to are indicated in table 4.2. The report notes that approximately 6km² (4%) of the bogs that supply peat to Edenderry Power Plant are located within the Shannon Lower catchment. The area of the lower Shannon catchment is approximately 5,051km². The bogs comprise 0.01% (6km²) of the catchment area and there is significant separation between the bogs and the SACs.

2.2.6 Having identified potential effects section 5 addressed the likelihood of effects and impacts in the absence of mitigation.

In relation to drainage effects on the Long Derries SAC the report indicates that no hydrological link is established. Dust emission is also extremely unlikely upon calcareous grassland which is the qualifying habitat for the SAC.

In relation to the River Barrow and River Nore SAC many qualifying habitats are excluded by reason of distance from the bogs and the absence of hydrological connection where the habitats are in tributaries downstream of the bogs. Impacts on aquatic species in particular salmon arising from drainage and silt accumulation are identified in table 5.3.

In relation to the River Boyne and River Blackwater SAC I would refer to table 5.5 of the report where silt accumulations are identified as of potential impact.

2.2.7 Section 6 of the report assesses the significance of effects in relation to the plant itself and the bogs coming to a number of conclusions.

In relation to Long Derries SAC and the question of peat harvesting and supply to EPP, having outlined details of operation both in the past and as currently operating currently, the potential for significant effects on the qualifying interest of the Long Derries SAC is indicated as uncertain in the absence of mitigation measures being implemented.

In relation to wastewater discharges from the Edenderry Power Plant and significance of effects on the River Barrow and River Nore SAC, it is concluded, that given the distance between the discharge point and the River Barrow and River Nore SAC there is no potential for significant effects to impact on the conservation objectives of the River Barrow and River Nore SAC.

In relation to the question of peat harvesting and supply to EPP and significance of effects on the River Barrow and River Nore SAC. This is addressed in section 6.2.2.2 and concludes there is potential for significant effects to impact on the qualifying interest of the River Barrow and River Nore SAC in light of the conservation objectives is uncertain in the absence of mitigation measures.

In relation to the question of peat harvesting and supply to EPP and significance of effects on the River Boyne and River Blackwater SAC. This is addressed in section 6.2.2.3 and concludes there is potential for significant effects to impact on the qualifying interest of the River Barrow and River Nore SAC in light of the conservation objectives is uncertain in the absence of mitigation measures.

Other plans and projects are also considered in section 6.3 and activities from agriculture are highlighted. I would also refer to appendix D which outlines individual plans and projects with a summary of in-combination effects

The overall conclusion of the screening is outlined in section 7.

2.3. **Revised Natura Impact Statement.**

2.3.1 Arising from the screening report a revised Natura Impact Statement is submitted which the applicant indicates is an assessment of possible adverse impacts identified in the screening report. The impacts are considered in the context of an absence of mitigation and also mitigation measures outlined in section 7 of the NIS.

In relation to the bogs which supply peat to the plant I would refer to section 3.2 of the revised NIS and in particular table 3.1 where the bogs are identified.

2.3.2 Section 4 of the revised NIS relates to baseline conditions of Natura 2000 Sites.

In section 4.2 the Long Derries SAC (000925) is considered. The site is designated as a conservation site for the presence of the Annex I qualifying habitat 'Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco Brometalia) (important orchid sites) (6210). A description of the site and the various habitats are outlined. In this regard I would refer to figures 4.1 and 4.2 and in particular the area defined as *Dry calcareous grassland (GS1)*.

In section 4.3 the River Barrow and River Nore SAC (002162) is considered. The site consists of most of the freshwater stretches of the Barrow/Nore River catchments and which covers a vast area. In addition to the tidal stretches. The SAC site also includes the extreme lower reaches of the River Suir and all of the estuarine component of Waterford Harbour extending to Creadan Head. The SAC includes a large number of qualifying annex I habitats, priority habitats and Annex II species under the EU Habitats Directive outlined in tables 3.1 and 3.2. A large number of the qualifying species are excluded owing to distance and absence of a link to the plant and the harvesting bogs as outlined in the NIS and previously in the screening report.

The bogs that are harvested to supply peat fuel to Edenderry Power Plant, are generally located within the Figile River catchment, which in turn is part of the overall River Barrow catchment area. Water quality is outlined in section 4.3 and I would also refer to table 4.4, which outlines the status of waterbodies within the Barrow catchment and associated peat harvesting area and indicates that the physico-chemical and biological and ecological quality of the waterbodies to be very variable and ranked status depending on location as good; moderate; poor and bad. The status within the catchment is based on low numbers of macroinvertebrates present in the surface waterbodies. This it is indicated most likely being a reflection of the waterbodies location in peaty soils where the natural water quality where naturally occurring processes are not conducive to the presence of large numbers of macroinvertebrates. It is acknowledged that these naturally occurring impacts may be exacerbated by the continued harvesting and supply of peat fuel to Edenderry Power Plant (page 34).

The revised NIS also includes aquatic and fish surveys. Reference is also made to the flow character of the rivers; to the presence of dredging which affects flows; and to the Figile River being a sluggish watercourse. The ecological condition of the Figile River was found to be suboptimal. Although salmon is recorded in the Barrow and Figile catchments the levels are indicated as suboptimal for a number of reasons including historical drainage and water quality.

The white-clawed crayfish is identified as present in both the Figile River and the River Barrow. This species would be impacted by any changes to water quality. Lamprey twaite and mussels were also surveyed. In relation to the Freshwater Pearl Mussels *Margaritifera margaritifera* the species was not identified at a location in the Barrow catchment where there is a hydrological link to the plant or the bogs.

In section 4.4 the River Boyne and River Blackwater SAC (002299) is considered. The site consists of most of the freshwater stretches of these rivers and covers a vast area. The SAC includes a large number of qualifying annex I habitats consisting of alkaline fens and alluvial forests, priority habitats and Annex II species, salmon; river lamprey and otter, under the EU Habitats Directive. These are outlined in tables 4.8 and 4.9. A number of watercourses are considered in the context of proximity to the plant and harvesting bogs in the context of water quality, flow, including historical drainage and dredging, and also in relation to the presence of aquatic life.

- 2.3.3 Section 5 examines the prediction of impact in relation to conservation objectives arising from the screening assessment in relation to the SACs identified.

In relation to the Long Derries SAC [000925] AA screening determined that there is potential for significant effects, or uncertainty as to the likelihood of significant effects, in the absence of mitigation, on Annex I qualifying habitat [6210] Orchid-rich Calcareous Grassland within the SAC due to dust deposition associated with the harvesting and supply of peat fuel to Edenderry Power Plant.

An assessment of the potential to have an adverse effect on the conservation objectives of the Long Derries SAC is presented in Table 5.4. The assessment indicates decline of the qualifying habitat is due to a number of factors and not necessarily solely due to dust deposition however in the absence of mitigation dust deposition could not be ruled out inhibiting recovery of the habitat area. Invasion of other habitats including scrub and also the absence of grazing are identified as major factors in habitat loss.

In relation to the River Barrow and River Nore SAC [002162] AA screening determined that there is potential for significant effects, or uncertainty as to the likelihood of significant effects, in the absence of mitigation, on the freshwater dependent qualifying features of the River Barrow and River Nore SAC due to surface water run-off associated with the harvesting and supply of peat fuel to Edenderry Power Plant.

White-clawed crayfish, brook lamprey and Atlantic salmon are examined and in this regard I refer to table 5.5 of the revised NIS. In relation to White-clawed crayfish, no adverse impact on conservation objectives after evaluation was considered likely based on current conditions and a review of the characteristics of the watercourses and water quality.

In relation to brook lamprey, the Figile River is not identified as a stronghold, where the paucity of spawning gravels is a limiting factor. Nor to be an important recruitment area for this species and is it considered an important contributor to the main Barrow system. The NIS considers that there is, therefore, limited potential for the production of milled peat within the Figile catchment to have an effect on the distribution, population structure, juvenile density, extent and distribution of spawning habitat and the availability of juvenile habitat of brook lamprey. Generally, therefore, the NIS considers that no adverse impact on conservation objectives is likely from surface water run-off discharging to the Figile River.

The NIS, however, does identify that there is is potential for surface water run-off from Garrymore Bog to have an effect on the conservation objectives of Brook lamprey in the River Barrow and River Nore SAC, in the absence of mitigation as Garrymore Bog discharges surface water run-off, via a silt pond, approximately 1.4 kilometres upstream of the River Barrow and River Nore SAC.

In relation to salmon the Figile River is considered sub optimal for salmon in relation to water quality and general river characteristics and its catchment is a considerable distance from the tidal estuary of the Barrow

In relation to the River Boyne and River Blackwater SAC, AA screening determined that there is potential for significant effect, in the absence of mitigation, on the freshwater dependent qualifying features due to surface water run-off associated with the harvesting and supply of peat fuel to Edenderry Power Plant. The qualifying features are identified as River Lamprey and Atlantic salmon.

The watercourses which are drained from bogs are outlined and considered in sections 5.3.3.1 to 5.3.3.5 and in relation to an overall assessment of the SAC I refer to table 5.5 of the revised NIS. In relation to potential for adverse effects on site integrity and conservation objectives it is indicated that there is potential for surface water run-off from Ballybeg and Toar and Drumman bogs to have an effect on the conservation objectives of River Lamprey in the River Boyne and Blackwater SAC, in the absence of mitigation.

2.3.4 Section 6 of the revised NIS refers to other plans and projects and in addition to development proposals outlined in appendix B existing activities including agriculture, forestry, water infrastructure and peat harvesting itself are referred to.

2.3.5 Section 7 of the revised NIS relates to mitigation measures outlined in relation to dust control (section 7.2), control of surface runoff (7.3) and in this regard reference is made to the conditions of IPC licence and that the bogs which supply peat fuel to Edenderry Power Plant drain to the nearest watercourse via a silt pond treatment system, in accordance with the conditions of the licence. It is indicated that the licences are the subject of ongoing appraisal and review.

2.3.6 Section 8 of the revised NIS relates to residual impacts and in this regard refers to the application of the mitigation measures to avoid, reduce or offset the possibility of adverse impacts on the integrity of Natura 2000 sites in light of their conservation objectives and which are considered best practice. It concludes that following effective implementation of the proscribed mitigation measures, the continued use and operation of EPP including the harvesting of and supply of peat to the Plant will not result in any adverse impacts on the integrity of any relevant Natura 2000 sites.

3.0 OTHER SUBMISSIONS.

3.1 **Offaly County Council** in a submission dated the 5th of August 2016, requested the Board to uphold its decision to grant planning permission.

3.2 The **Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs** in a submission dated the 10th of August 2016, outline nature conservation recommendations of the National Park and Wildlife Service. The submission refers to a condition that all mitigation measures be applied and form part of any condition to grant permission for this application.

3.3 **Mr Michael Hoey** c/o Harrington and Co. Solicitors in a submission dated the 10th of August 2016, indicates.

- The current proposal is invalid for the purpose of extending the continued use and operation of the EPP until 2030.
- Reference is made to the current application being for the extension and continued use and operation of EPP and that no new structures are proposed.
- When the application was received by Offaly County Council a completely new feedstock handling system was being constructed pursuant to a grant of planning permission P.A. Ref 14/144/ABP Ref PL.19.243916.
- The current proposal does not provide for the retention of new feedstock handling system and fails to make reference to works commenced or being on the site as of the 19th of May 2015.
- No application has been made to retain any of the structures previously permitted and constructed on the site on the foot of previous applications.
- No application is made for the continuance of peat extraction from raised bog habitats across the Midlands in support of the continuation in being of EPP.
- There is no application for the extraction of peat and it is entirely impermissible for the Board to grant permission for the continued destruction of the raised bogs.
- Reference is made to the High Court Judgement and to the Arklow Holdings v An Bord Pleanála (2006) IEHC 15 decision and “what is required to be assessed is the totality of the impact of the project as a whole” and the applicant has failed to provide the minimum amount of

information that would enable any assessment of the direct and indirect effects to be carried out.

- Reference is made to table 6.7 of the revised screening for appropriate assessment which omits all the raised bogs developed to date and specifically since 1993 when Bord na Mona first made application to the EU for funding for EPP some of which raised bogs are being exploited in a similar fashion to that of Derryounce Bog.
- Reference is made to previous submissions of Mr Hoey and the harvesting and removal of peat from a total of 85 raised bogs in the Midlands and which is impacting on the connected Barrow, Boyne and Shannon SACs.
- Direct and indirect effects also include private operators removing peat from this extensive network of raised bog lands within the catchments of the Barrow, Boyne and Shannon SACs.
- Assessment must also include in-combination and cumulative impacts on the abstraction and discharges to water within the catchment of each river basin and the navigation of the rivers Boyne and Barrow which includes the Royal and Grand Canals.
- The High Court Judgement confirms that the Board and applicant excludes completely the consideration of the indirect effects and the further information fails utterly to address indirect affects and ignored direct effects.
- Reference is also made that all peat is supplied by a rail line but this is not correct.
- Reference is made to bogs that are in production but not supplying EPP and have been omitted from the NIS.

3.4 **An Taisce** in a submission dated the 23rd of August 2017 (presume should read 2016) refers to,

General.

- The proposed mitigation measures are key in this case as the applicant's submission in page 45 refers to significant effects in the absence of mitigation measures.
- In the absence of adequate measures, the project would fail the test in Article 6(3) of the Habitats Directive with reference to the Waddenzee ECJ case.
- The mitigation measures outlined are clearly flawed and the plant fails to meet the test of Article 6(3).
- The mitigation measures are heavily qualified and the measure may not in fact provide protection at all in practice.
- Why is there a need for such qualifications and many mitigations are aspirational and impossible to police?
- Can the mitigation measures which are aspirational be relied upon to provide for a conclusion of beyond reasonable doubt?
- Reference is made to previous mitigation measures being inadequate.
- The reference to "environmental enhancement opportunities" is in breach of the Briels ECJ Case (C-521-12).

- An Taisce disagree with the overall conclusion of the NIS in relation to Natura 2000 sites considering significant ongoing impacts on water quality have been poorly characterised and inadequately assessed; there are gaps in the assessment and no conclusive rationale that the proposed mitigation measures will be effective.
- Article 6(3) of the directive cannot be met and the only way the Board could grant the proposed development is if Article 6(4) is invoked.

Long Derries SAC.

- There are a number of direct and indirect impacts that the continued use of the cut over bogs to the north and south of the SAC could have on the site.
- The NIS identifies the deterioration and loss of habitat and An Taisce contests the role that Bord na Mona's activities have played in this regard in relation to access for grazing, use of machinery in the area, ongoing harvesting of peat and effects on drainage and also the failure of the NIS to address these issues.

River Nore and River Barrow SAC

- Reference is made to the importance OF the SAC; the numerous species and habitats; the main threats to the SAC; and the importance of good water quality; and the issue of drainage.
- Reference is made to impact on plant species including Basil Thyme and, Green Winged Orchid from the peat extraction activities.
- Reference is made to the NIS and identification of potential impacts associated with peat harvesting including drainage and sediment entering receiving waters and 73% of the bogs supplying EPP are within the Barrow catchment and the potential of impacts arising.
- Reference is made to the proposed mitigation measures and the assertion that these address potential impacts. The submission refers to impacts identified in the EPA's draft Suir Catchment Assessment in relation to peat extraction where elevated concentrations of ammonium result in pressures on water quality. The issue arises as to whether similar impacts would be expected to arise in both the Barrow and Boyne catchments. Ammonium is not addressed in the NIS.
- Peat extraction has significant impacts on water quality in relation sedimentation and release of nutrients which impact on fish and other species in waterbodies.
- Reference is made to the water quality within the River Figile catchment the main area affected by peat harvesting supplying EPP with many watercourses having bad or poor status.
- This contrasts with other catchments with high levels of peaty soil and there is an absence of quantifying the scale of pollution arising from Bord na Mona activities. It is noted that water quality improves away from the harvesting areas.
- Peat harvesting affects drainage and increases impacts.
- In considering species which are listed there is an absence of assessment of cumulative impacts arising in watercourses or

explanation of the impact of sediment and eutrophication specifically arising from peat harvesting on species.

- Reference is made in this regard to the qualifying species, and the absence of assessment of impact on white clawed crayfish brook lamprey and salmon.
- Reference is made to section 4.1.1.1 of the revised NIS and the nature of the sluggish flow on the Figile River. There is also reference to the specific objectives of the SAC and also that discharges from bogs are not affecting water quality which is disputed.
- The NIS fails to establish that the current status of the Barrow catchment is not affected by Bord Na Mona activities and quantify the scale of pollution. It also having identified potential impacts failed to making the connection to the role of its activities in relation to these impacts or quantified the impacts.
- There is also an absence of cumulative assessment.

River Boyne and River Blackwater SAC

- Reference is made to the importance of the SAC, in particular, in relation to salmon and the numerous species and habitats and the main threats to the SAC; the importance of good water quality; eutrophication and also the issue of drainage and dredging.
- Reference is made to the poor status of water quality in proximity to the bogs and a lack of explanation of whether absence of spawning is attributable to the peat harvesting and the issue of cumulative impacts is also referred to.
- There is an absence of assessment of Bord Na Mona activities and in this regard reference is made to eutrophication, acidification sedimentation and dredging.
- It is also considered that the NIS fails also to quantify the scale of pollution. It also, having identified potential impacts, failed to making the connection to the role of its activities in relation to these impacts or quantified the impacts. There is also an absence of cumulative assessment.
- In considering species which are listed there is an absence of assessment of cumulative impacts arising in watercourses or explanation of the impact of sediment and eutrophication specifically arising from peat harvesting on species.

Other matters.

- There is an absence of assessment of impacts on otters which, as an apex predator, are sensitive to the conservation status of prey species they feed on.
- The mitigation measures are not considered adequate or effective particularly in the context that these measures have not addressed current identified water quality issues in watercourses impacted by peat harvesting.
- Reference is made to EPA review of licences of the bogs as an example of previous mitigation measures not being adequate.

- In an overall context the assessment of cumulative impacts is inadequate. In this regard reference is made to impacts arising from agriculture and forestry.
- There is an attachment relating to the Irish Peatland Conservation Council's submission on the National Peatlands Strategy and also the IPCC case study of Clonroosk Bog. Clonroosk Bog is a Bord na Mona bog and issues in relation to management and drainage are raised.

4.0 APPLICANT RESPONSE.

4.1 **The applicant c/o Mott MacDonald** in a response dated the 30th of September 2016 addresses the submissions received.

In relation to the submission of Mr Hoey,

- Discharges from silt/sediment ponds combined with water extraction is not considered to be a significant in-combination effect.
- Discharge to water from silt/sediment ponds only occurs during periods of rainfall.
- Supply of peat is predominantly from the rail line and it is intended to source peat from bogs identified in the revised NIS.

In relation to the An Taisce submission,

- The mitigation measures are measures conditioned by the EPA Licences as indicated in section 7.4 of the NIS and are subject to compliance and subject to an annual environment report.
- The mitigation measures in relation to terminology reflect the terms of the licences and are not intended to reflect an absence of commitment to implementation.
- The environmental enhancement opportunities are a programme of bog rehabilitation and the NIS does not suggest they are mitigation measures.

In relation to **Long Derries SAC** and the issue of unidentified impacts, the revised screening report in chapter 3 identifies elements of Bord na Mona activities having potential for significant environmental effects.

- Bord Na Mona ownership does not extend to the eastern section of the SAC and it has never carried out works in this area or prevented access for grazing.
- The area of priority habitat is under pressure from scrub grazing and is not within the ownership of Bord na Mona and the reduction in area of the habitat is not attributable to Bord na Mona.
- Reference is made to the presence of the rail track, to gravel extraction and also to peat extraction in the period prior to the designation of the SAC. There are alternative means of access and these accesses do not curtail access to the eastern area of the SAC for grazing.
- The NPWS did not identify the use of the track as a threat or pressure in relation to the SAC designation.

- The continued use of the track surrounded by scrub and bracken is extremely unlikely to impact on the calcareous grassland within the SAC.
- The reference to figure 4 of the An Taisce submission that there is extensive erosion within the SAC is misleading as the area indicated is not within the SAC and within the area permitted for extraction by licence.
- There is no car park operated by Bord na Mona.
- Basil thyme is not a qualifying feature of the Long Derries SAC but the peat harvesting operations require the maintenance of a track which has created a substrate which has supported the presence of this species.
- The revised screening report addresses the issue of dust. It is indicated that this does not impact on the calcareous grassland and identifies encroaching scrub as a greater threat.
- In relation to hydrology and drainage reference is made to section 5 of the revised screening report which refers to the presence of the sump. There is no significant connection between the sump and the SAC and no vulnerable link. In this context there is no potential for significant effects and the ongoing peat extraction will not result in changes to the prevailing hydrological regime at the SAC site.
- Scrub encroachment and not drying out of uncut bog habitat is the identified threat to the qualifying habitat.
- There are no nesting birds listed as qualifying features of the SAC but it is noted that nightjar and partridge were not recorded in surveys.

In relation to the **River Barrow and River Nore SAC**, regarding issues raised in relation to water quality and drainage, reference is made to section 7.3.1.2 of the revised NIS which outlines the characteristics of the river in particular the upper reaches of the catchment and the slow flow characteristics.

- Drainage has occurred to prevent meander and depositing conditions occur. The Figile River is a drained river.
- Reference is made to table 5.3 of the revised NIS in relation to crayfish in the river. The Figile river owing to its characteristics is not a suitable habitat for salmon or brook lampreys.
- Bord na Mona do not engage in the dredging of watercourses but remove sediment within drainage channels and sedimentation ponds as per the EPA Licence and these operations are outlined in section 7.3 of the revised NIS where discharge is also controlled to prevent flooding.
- Mitigation measures are in accordance of the licence and reflect the terminology applied in the conditions of the licence.
- In relation to the EPA study of the River Suir impacts on the section of the River Suir cannot be assumed to reflect conditions in relation to the River Barrow and River Boyne. Reference is made in this regard to the water quality status achieved upstream and downstream of peat extraction areas.

- In relation to the scale of pollution and that attributable to peat harvesting the WMU action plans for the Upper Boyne and the Figile do not identify diffuse pollution from peat harvesting as a risk.
- The risks are clearly identified as nutrients primarily from agriculture and unsewered properties.
- Risks have been assessed and there is no evidence to suggest Bord na Mona is having a negative impact on the Barrow catchment.
- Sections 6.3.2.4 and 6.3.3.3 of the revised NIS address cumulative impacts.
- A detailed assessment was carried out of white clawed crayfish and reference is made to table 5.3 of the revised NIS and cumulative impacts are addressed in section 9 which concludes no adverse impact on the conservation objectives of white clayed crawfish.
- Brook lamprey is addressed in section 5.3.2.2 of the revised NIS and in particular the conditions prevailing in the Figile River. The river is not an important recruitment area for the species and the report concludes no adverse impact on of the species.
- In relation to salmon reference is made to section 4.1.1.1 of the revised NIS and the nature of the sluggish flow on the Figile River. There is also reference to the specific objectives of the SAC and also that discharges from bogs are not affecting water quality.
- There is acknowledgement of potential adverse impacts from Garrymore Bog and mitigation measures are outlined in relation to addressing this.

In relation to the **River Boyne and River Blackwater SAC.**

- No dredging is carried out of watercourses by Bord na Mona and cumulative impacts are considered in the revised NIS.
- The upper catchment generally is not considered suitable for the spawning of lamprey given the characteristics of the river catchment downstream and the extent of anadromy which considers distance from the estuary area and the catchment area effected by peat harvesting.
- Similar conditions generally apply in relation to salmon but there is recognised potential for salmon spawning in the Yellow River which has discharge from harvested bogs. Mitigation measures are outlined in relation to this section of the catchment in accordance with the EPA licence in chapter 7 of the revised NIS.
- The revised screening report in section 4.1.24 considered water quality and consequent impact on fish biomass and consequent impacts on larger species including otters. Impacts are identified as extremely unlikely and the issue of sub optimal habitat conditions for the species were also considered. As a consequence, the species was screened out of AA.

General matters are also referred to in the response.

- Mitigation measures are addressed in the revised NIS and reference is made in this regard to the requirements of the EPA licence.

- In-combination effects are addressed in chapter 6 of the revised NIS.

4.2 There is also a submission from **Arthur Cox Solicitor** on behalf of the applicant relating to legal and procedural issues in the third party submissions.

In relation to the submission of Mr Hoey,

- The current application is for the continued use and operation of the power plant to 2030 and there is no requirement for the applicant to seek permission to retain any of the structures authorised and constructed in reliance on previous grants of planning permission.
- Previous permissions granted for building did not require their removal by a specified date or at all.
- The current application addresses condition no. 2 of the original planning permission and relates to continued use and there is no requirement to apply to retain the structures.
- In relation to the feedstock handling system the applicant is not required to apply for an application for retention permission in respect of this as it is authorised by a grant of permission and has been constructed in accordance with same.
- In relation to peat extraction the High Court Judgement did not consider the issue of whether or not planning permission was required for ongoing peat extraction and reference is made to paragraph 17 of the judgement in this regard.
- The applicant has responded to the Board's request of further information in a complete, precise and scientifically robust assessment in relation to the revised screening report and revised NIS. Table 6.7 presents the water quality status of water bodies within the catchment of the River Barrow associated with bogs identified and associated with supplying peat. Only peat bogs which currently and will continue to supply peat were assessed for the purpose of the habitats directive and the bogs are identified in table 2.1 of the revised screening report.

In relation to the An Taisce submission.

- The mitigation measures are not flawed and are measures as prescribed and conditioned by the EPA licences.
- The licences are subject to statutory compliance and based on review of these licences.
- The terminology used in the mitigation measures reflects the terminology used in the conditions of the EPA Licences and does not reflect an absence of commitment in relation to mitigation or implementation.
- Nowhere in the submission is the programme of bog rehabilitation and environmental enhancement opportunities regarded as mitigation measures.
- In relation to Clonroosk Bog the drainage works carried out on this bog were done so in error and full remedial measures were carried out in

accordance with the agreement of the EPA, IPCC, NPWS and Kildare County Council.

5.0 APPROPRIATE ASSESSMENT.

5.1 INTRODUCTION.

5.1.1 I would initially refer to my report dated the 25th of February 2016 in relation to the current proposal and in particular to section 12.4 of the report relating to Appropriate Assessment.

5.1.2 In considering the Appropriate Assessment I considered that a level of detailed assessment was carried out in the NIS in relation to 73% of the bogs that supply milled peat to Edenderry Power Plant but the question arose in relation to whether the remaining 27% of bogs have been satisfactorily assessed and considered to enable an assessment of whether the development individually and in combination with other plans or projects adversely affects the integrity of the European site concerned having regard to its conservation objectives and that there would be no adverse effect on the integrity of a Natura 2000 site, apart from in exceptional circumstances.

The NIS as submitted I considered focussed in detail on the Figile River WMU and the identified pathway link to Natura sites of the Figile River WMU as part of the River Barrow and River Nore SAC. There was I considered, however, an absence of any detailed or considered assessment in relation to other Natura 2000 sites in particular the remaining 27% of bogs identified as sources of milled peat to the power station. I would accept that these bogs are further removed from the power station but there is a clear requirement that indirect effects require to be assessed and these peat land areas were identified in the original EIS and NIS.

There was also I considered a requirement that a structured and reasoned assessment should be adopted in which a stage by stage assessment would be carried out with an initial screening process of conservation sites to identify whether advancement to stage 2 AA is required.

In relation to AA The question arises as to whether the project is likely to have a significant effect, either individually or in combination with other plans and projects, on the European site(s) in view of the site's conservation objectives. This requires a stage 1 screening to determine this position and to determine if a Stage 2 assessment can be excluded or is required.

In relation to this matter the NIS as originally submitted referred to the current regulatory regime and the conditions applied by the EPA licences and the conditions attached which set out standards, in particular, for emissions to the receiving environment in particular water.

This approach, I considered, was insufficient to conclude that peat extraction completed in accordance with the IPC licence alone will not have significant

effects on Natura 2000 sites. without a more detailed appraisal identifying the Natura 2000 sites.

5.2 APPROPRIATE ASSESSMENT SCREENING STAGE 1.

- 5.2.1 In relation to stage 1 screening the revised Appropriate Assessment Screening Report addresses all of the bogs which supply milled peat to the power plant and also the plant itself. The report examined and assessed Natura 2000 sites and identified three SACs, Long Derries SAC, the River Barrow and River Nore SAC and the River Boyne and River Blackwater with possible connection to the plant and the harvested bogs supplying the plant, which could potentially be affected using the Source-Pathway-Receptor model by direct hydrological link or by proximity to operations.
- 5.2.2 The screening report also examined other Natura 2000 sites and excluded these and set out reasons for exclusion.

The Natura sites examined were,

River Boyne and River Blackwater SPA (004232) with the qualifying interest of the kingfisher. The report refers to a hydrological link between the River Boyne and River Blackwater SPA and the bogs that are harvested to supply peat to Edenderry Power Plant however, the majority of watercourses associated with the bogs that supply peat to Edenderry Power Plant are sub-optimal for Kingfisher. In relation to potential significant effects it is indicated that any local deterioration in water quality is extremely unlikely to have a significant effect on Kingfisher due to the distance between the bogs and the River Boyne and River Blackwater SPA.

Lough Ennell SAC (000685) with a qualifying interest of alkaline fens [7230]. The report refers to separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of the Lough Ennell SAC is unlikely.

Lough Ennell SPA (004044) with qualifying interests of Pochard (*Aythya ferina*) [A059]; Tufted Duck (*Aythya fuligula*) [A061]; Coot (*Fulica atra*) [A125] Wetland and Waterbirds [A999]. The report refers to separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of the Lough Ennell SPA is unlikely.

Mount Hevey Bog SAC (002342) with a qualifying interest of active raised bogs [7110]; degraded raised bogs still capable of natural regeneration [7120] and depressions on peat substrates of the *Rhynchosporion* [7150]. The report refers to separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of the Mount Hevey Bog SAC is unlikely.

Split Hills and Long Hill Esker SAC (001831) with a qualifying interest of semi-natural dry grasslands and scrubland facies on calcareous substrates

(*Festuco-Brometalia*) (important orchid sites) [6210]. The report refers to separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of the Split Hills and Long Hill Esker SAC is unlikely.

Raheenmore Bog SAC (000582) with qualifying interests of active raised bogs [7110]; degraded raised bogs still capable of natural regeneration [7120] and depressions on peat substrates of the *Rhynchosporion* [7150]. The report refers to separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of the Raheenmore Bog SAC is unlikely.

Clara Bog SAC (005720) with qualifying interests of semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco-Brometalia*) (important orchid sites) [6210]; active raised bogs [7110]; degraded raised bogs still capable of natural regeneration [7120] and depressions on peat substrates of the *Rhynchosporion* [7150]. The report refers to separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of Clara Bog SAC is unlikely

Charleville Wood SAC (000571) with qualifying interests of Bog woodland [91D0]; *Euphydryas aurinia* (Marsh Fritillary) [1065] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] *Vertigo moulinsiana* (Desmoulin's Whorl Snail) [1016] The report refers to separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of Charleville Wood SAC (000571) is unlikely.

Clonaslee Eskers and Derry Bog SAC (000859) with qualifying interests of alkaline fens [7230] *Vertigo geyeri* (Geyer's Whorl Snail) [1013]. The report refers to separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of Clonaslee Eskers and Derry Bog SAC is unlikely

Slieve Bloom Mountains SAC (000412) with qualifying interests of northern atlantic wet heaths with erica tetralix [4010]; blanket bogs (if active bog) [7130] and alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]. The report refers to separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of Slieve Bloom Mountains SAC is unlikely

Slieve Bloom Mountains SPA (004160) with A qualifying interest of Hen Harrier (*Circus cyaneus*) [A082]. The report refers to separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of Slieve Bloom Mountains SPA is unlikely.

Mountmellick SAC (002141) with a qualifying interest of *Vertigo moulinsiana* (Desmoulin's Whorl Snail) [1016]. The report refers to

separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of Mountmellick SAC (002141) is unlikely.

Mouds Bog SAC (002331) with qualifying interests of active raised bogs [7110]; degraded raised bogs still capable of natural regeneration [7120] and depressions on peat substrates of the *Rhynchosporion* [7150]. The report refers to separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of Mouds Bog SAC is unlikely.

Pollardstown Fen SAC (000396) with qualifying interests of calcareous fens with *Cladium mariscus* and species of the *Caricion davalliana* [7210]; petrifying springs with tufa formation (*Cratoneurion*) [7220]; alkaline fens [7230]; *Vertigo geyeri* (Geyer's Whorl Snail) [1013]; *Vertigo angustior* (Narrow-mouthed Whorl Snail) [1014] and *Vertigo moulinsiana* (Desmoulin's Whorl Snail) [1016]. The report refers to separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of Pollardstown Fen SAC is unlikely.

Ballynafagh Lake SAC (001387) with qualifying interests of alkaline fens [7230]; *Vertigo moulinsiana* (Desmoulin's Whorl Snail) [1016] and *Euphydryas aurinia* (Marsh Fritillary) [1065]. The report refers to separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of Ballynafagh Lake SAC (001387) is unlikely.

Ballynafagh Bog SAC (000391) with qualifying interests of active raised bogs [7110]; degraded raised bogs still capable of natural regeneration [7120] and depressions on peat substrates of the *Rhynchosporion* [7150]. The report refers to separation distance and absence of hydrological connectivity and that potential for direct impacts on the qualifying interests of Ballynafagh Bog SAC is unlikely.

- 5.2.3 In relation to the Natura sites referred in section 5.2.2 of this report and the qualifying interests stated, the revised screening report has examined, identified and assessed the potential likely and significant effects, direct or indirect of the project in combination with other plans or projects, on the European sites solely within the context of the identified conservation objectives.

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on these European Sites in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required in relation to the sites identified and excluded.

- 5.2.4 In relation to the River Barrow and River Nore SAC and the River Boyne and River Blackwater SAC both of these Natura 2000 sites have numerous qualifying interests and cover large areas. In particular River Barrow and River Nore SAC, which accounts for approximately 73% of the bogs used for harvesting peat with the remainder largely located within the catchment of River Boyne and River Blackwater SAC (21%).
- 5.2.5 There are a large number of qualifying interests in the River Barrow and River Nore SAC which are,
- Estuaries [1130]
 - Mudflats and sandflats not covered by seawater at low tide [1140]
 - Salicornia and other annuals colonising mud and sand [1310]
 - Atlantic salt meadows (*Glauco- Puccinellietalia maritima*) [1330]
 - Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
 - Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]
 - European dry heaths [4030]
 - Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]
 - Petrifying springs with tufa formation (*Cratoneurion*) [7220]
 - Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]
 - Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]
 - *Vertigo moulinsiana* (Desmoulin's Whorl Snail) [1016]
 - *Margaritifera margaritifera* (Freshwater Pearl Mussel) [1029]
 - *Austropotamobius pallipes* (White-clawed Crayfish) [1092]
 - *Petromyzon marinus* (Sea Lamprey) [1095]
 - *Lampetra planeri* (Brook Lamprey) [1096]
 - *Lampetra fluviatilis* (River Lamprey) [1099]
 - *Alosa fallax fallax* (Twite Shad) [1103]
 - *Salmo salar* (Salmon) [1106]
 - *Lutra lutra* (Otter) [1355]
 - *Trichomanes speciosum* (Killarney Fern) [1421]
 - *Margaritifera durrovensis* (Nore Pearl Mussel) [1990]

In section 5.3 of the screening report the qualifying interests are assessed and many are excluded due to the considerable distance between activities associated with Edenderry Power Plant and areas of peat extraction, and because many of tidal and estuary habitats due to distance and the nature of these habitats are not likely to be impacted by the power plant or peat extraction activities in light of the conservation objectives. There are also considerations of hydrological connection in particular to upstream River Nore locations and uplands in the Barrow catchment where no link direct or indirect are established.

The approach and methodology as set out is I consider robust and identifies that the SAC and qualifying habitats in the Figile catchment can be potentially effected without mitigation through harvesting of bogs through deposition into watercourses and also in relation to abstraction from the Figile River and wastewater discharge arising from the operation of the plant with consequent potential impact on particular qualifying species. In that context stage 2 assessment as indicated in the screening report is I consider and conclude reasonable.

5.2.6 In relation to the River Boyne and River Blackwater SAC there are a large number of qualifying interests which are,

- Alkaline fens [7230]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]
- *Lampetra fluviatilis* (River Lamprey) [1099]
- *Salmo salar* (Salmon) [1106]
- *Lutra lutra* (Otter) [1355]

The screening report identifies that there is a hydrological link between the River Boyne and River Blackwater SAC and the bogs that are harvested to supply peat to Edenderry Power Plant with potential for significant effects from the continued harvesting and supply of peat.

Section 5.4 of the screening report evaluated the priority habitats on Annex I of the EU Habitats Directive and considered that due to the considerable distance between the River Boyne and River Blackwater SAC, the Edenderry Power Plant, and the bogs that supply peat to Edenderry Power Plant (over nine kilometres), alkaline fen and alluvial forest habitat is not likely to be affected and can be excluded from stage 2 assessment. Otters were also excluded on the basis of distance between the harvesting bogs and the (16.8 km along the length of the river) and as a consequence any potential for impacts on otter are extremely unlikely.

In relation to other species potential impacts on the SAC from continued harvesting and supply of peat to the Edenderry Power Plant were determined as the impacts on population dynamics and the natural range of these aquatic species and their habitats caused by surface water run-off from the bogs. The issue to be considered in this regard relates to the peat harvesting activities, coupled with regular precipitation, which may result in the washing of peat from the extraction areas to rivers leading to accumulations of silt in downstream areas, including the main channel, reducing the areas and quality of habitat.

The screening concluded that there was potential to affect reproduction of species of conservation interest arising from surface water run-off, in the absence of mitigation measures, from the bogs that supply peat to Edenderry Power Plant.

The approach and methodology as set out in relation to the River Boyne and River Blackwater SAC is reasonable and robust and identifies that the SAC and qualifying habitats in the Figile catchment can be potentially affected without mitigation through harvesting of bogs through deposition into watercourses. I would, however, note that the An Taisce submission does question the exclusion of the otter, which as an apex predator is sensitive to the conservation status of prey species they feed on/

5.2.7 Other areas

5.2.7.1 The screening report notes that approximately 6km² (4%) of the bogs that supply peat to Edenderry Power Plant are located within the Shannon Lower catchment and that bogs that supply Edenderry Power Plant comprise 0.01% (6km²) of the catchment area. The bogs are identified in the report and assessed in relation to Natura 2000 sites. Daingean – Derries bog is identified as closest to the River Shannon Callows SAC at a distance of approximately 32.1 kilometres. The screening report concluded that in relation to the bogs in the Shannon catchment there is no potential for the continued harvesting and supply of peat to Edenderry Power Plant to have a significant effect on the conservative objectives of the River Shannon Callows SAC. I would consider this appraisal and assessment to be reasonable.

5.2.8 In relation to screening the revised screening report is in overall terms satisfactory when compared to the initial report in considering not just the plant itself but all of the harvesting bogs which supply peat to the plant.

5.3 **Appropriate Assessment State 2 of Potential Likely Significant Direct and Indirect Effects on Identified Natura arising from Screening Stage 1.**

5.3.1 I propose to consider the three Natura 2000 sites as identified in relation to Stage 2 assessment.

I would, however, initially note that that the An Taisce submissions in general comment has raised the view that there is a general disagreement with the aspects of the content of the NIS. The primary issues raised in this regard are; that there are significant ongoing impacts on water quality have been poorly characterised and inadequately assessed; there are gaps in the assessment and no conclusive rationale that the proposed mitigation measures will be effective.

In relation to mitigation I would, however, note that mitigation measures are outlined in the revised Natura Impact Statement and that the submission of the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs dated the 10th of August 2016 outlines nature conservation recommendations of the National Park and Wildlife Service.

The submission refers to a condition that all mitigation measures be applied and form part of any condition to grant permission.

5.3.2 Long Derries SAC.

5.3.2.1 In relation to the Long Derries SAC (site code 000925) it is located approximately 4.7 kilometres from Edenderry Power Plant and is located between Glashabaun North and Ticknevin bogs which are bogs supplying peat to the power station. There is also a rail line associated with peat production for the carriage of peat to the plant. The qualifying interest in relation to the site is *Orchid-rich Calcareous Grassland [6210]*.

5.3.2.2 Specifically, in relation to the potential for direct habitat disturbance on the qualifying interests of the Long Derries SAC from the continued use and operation of Edenderry Power Plant, the NIS considers that there is no potential for direct significant air quality effects to impact and there is no direct hydrological or hydrogeological link between the SAC and the Power Plant. Therefore, there is no potential for direct adverse hydrological or hydrogeological effects. As a consequence, the NIS report considers that the potential for direct significant effects on the Long Derries SAC associated with the continued use and operation of Edenderry Power Plant is unlikely.

It is noted that the An Taisce submissions refer in particular to the Long Derries SAC but are not specific to the operations of the plant itself and focus on peat harvesting.

The conclusions in relation to effects arising from the plant operations on the SAC have not identified direct significant effects. I consider this conclusion based on the information submitted is reasonable.

5.3.2.3 In relation to harvesting of peat and effects on the Long Derries SAC the immediate proximity of the Natura site to current bogs used for harvesting milled peat supplying the plant is identified and, in the absence of mitigation, it is indicated that the production of milled peat at Ticknevin Bog has the potential to generate particulate matter which can have the effect of impeding photosynthesis by deposition of dust. This therefore would have potential to cause adverse impacts to the calcareous grasslands which are the qualifying feature of Long Derries SAC i.e. Semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco-Brometalia*) (important orchid sites).

The revised NIS in section 5.3.1 considers and assesses the potential effect identified from dust deposition from the harvesting of peat in the absence of mitigation. It is identified that there is deterioration of the SAC and a contraction in the area where calcareous grassland occurs with the invasion of scrubland. The absence of grazing and spread of scrubland is identified by the applicant as the primary cause of deterioration of the qualifying habitat. It is also indicated and noted that dust deposition can inhibit recovery in the event that the pressure of scrub encroachment and succession of rank grassland is addressed.

Mitigation measures to address potential effects of dust deposition are outlined in section 7.2 of the revised NIS. It is concluded that, with the effective implementation of the mitigation measures, there is no potential for significant in-combination effects on the integrity of Long Derries SAC.

In relation to the mitigation measures these largely correspond to conditions applied under IPC Licence Registration No. 503 and are measures considered to be proven technologies and procedures for the control of dust including the provision of shelter belts and wind breaks which are planted in sensitive areas; suspension of production operations in adverse weather; the application of good practice in the use and operation of machinery; control of stockpiles.

In the An Taisce submission the operations of the applicant are referred as contributing to the abandonment of grazing and also that unintentional fertilisation arising from peat harvesting facilitates scrub development and consequent loss of grassland is not adequately addressed. Reference is also made to potential impact on the hydrology of the site from peat harvesting operations with consequent impacts on plants. The submission also refers to the overall impact of infrastructure i.e. the road, rail line and car park and also impacts arising from erosion associated with peat production activities. Reference is made to the absence of assessment of basil thyme and bird species. The absence of clarity in relation to the mitigation measures is also referred to.

By way of response to the matters raised the applicant indicates that Bord Na Mona ownership does not extend to the eastern section of the SAC and that it has never carried out works in this area or prevented access for grazing. The applicant reiterates the view that the area of priority habitat is under pressure from scrub grazing and is not within the ownership of Bord na Mona and the reduction in area of the habitat is not attributable to Bord na Mona. There are alternative means of accesses and these accesses do not curtail access to the eastern area of the SAC for grazing. The presence of and use of the rail track has not been identified by the NPWS as a threat or pressure in relation to the SAC designation. The continued use of the track surrounded by scrub and bracken is extremely unlikely to impact on the calcareous grassland within the SAC.

The applicant indicates that there is no car park operated by Bord na Mona and that basil thyme is not a qualifying feature of the Long Derries SAC but the peat harvesting operations require the maintenance of a track which has created a substrate which has supported the presence of this species. The revised screening report addresses the issue of dust and this does not impact on the calcareous grassland. It identifies encroaching scrub as a greater threat.

In relation to hydrology and drainage reference is made to section 5 of the revised screening report to the presence of the sump and that there is no significant connection between the sump and the SAC and no vulnerable

link. In this context there is no potential for significant effects and the ongoing peat extraction will not result in changes to the prevailing hydrological regime at the SAC site. There are no nesting birds listed as qualifying features of the SAC but it is noted that nightjar and partridge were not recorded in surveys carried out by the applicant.

In relation to mitigation the measures as outlined are, the applicant contends not flawed and are measures as prescribed and conditioned by the EPA licences, which are subject to statutory compliance and subject to ongoing review. It is also indicated that the terminology used in the mitigation measures reflects the terminology used in the conditions and does not reflect an absence of commitment in relation to mitigation.

- 5.3.2.4 As already indicated the qualifying interest in relation to Long Derries SAC is “Semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco- Brometalia*) (important orchid sites) [6210]”. The stage 1 screening report assessed both the plant and bogs in relation to the potential to effect the SAC and in particular the qualifying interest. Having identified dust deposition from adjacent working bogs as such a potential effect, the matter is considered in the revised NIS.

There would appear to be no dispute regard the deterioration of the habitat and SAC over time and no dispute that the invasion of the calcareous grasslands by scrubland is occurring. The absence of grazing is it would appear the major contributory factor in the decline. There is nothing to suggest that dust deposition in itself or that ongoing operations of the harvesting of peat solely is the major contributing factor resulting in the absence of grazing which is necessary to maintain the qualifying interest or that the applicant ownership of land prevents this grazing.

- 5.3.2.5 In relation to mitigation the dust control measures are in situ and reviewed by the EPA Licence and are a reasonable response applying measures adapted to the operation of peat harvesting. The measures in themselves will not eliminate dust deposition but will ameliorate the scale and level of deposition. Deposition in itself with the implementation of mitigation I am satisfied is not a significant effect in comparison to other identified effects, namely, the management of the grasslands and prevention of the spread of scrub into the grasslands.

5.3.3 River Barrow and River Nore SAC.

- 5.3.3.1 The River Barrow and River Nore SAC has a direct hydrological link to both the plant and a large percentage of the harvested bogs supplying the plant. The plant itself adjoins the Figile River and is used for abstraction and discharge of process water.

- 5.3.3.2 The An Taisce submission refers to the importance of the SAC and the numerous species and habitats; the main threats to the SAC and the importance of good water quality and also to the issue of drainage. The

significance of peat harvesting supplying the Edenderry plant within the Barrow catchment including drainage associated with peat extraction and sediment entering receiving waters is considered of significance in relation to the issue of water quality. Reference is made to the proposed mitigation measures and the assertion that these address potential impacts but the submission refers to the impacts identified in the EPA's draft Suir Catchment Assessment in relation to peat extraction where elevated concentrations of ammonium and hydromorphical result in pressures on water quality. The issue arises as to whether similar impacts would be expected to arise in both the Barrow and Boyne catchments but the issue of ammonium is not addressed in the NIS.

Concern is raised in relation to impacts on water quality referring to sedimentation and release of nutrients which in turn impacts on fish and other species in waterbodies. Reference is made to the water quality within the River Figile catchment the main area affected by peat harvesting supplying EPP, with many watercourses having bad or poor status and that this contrasts with other catchments with high levels of peaty soil and there is, An Taisce considers, an absence of quantifying the scale of pollution arising from Bord na Mona activities. It is noted that water quality improves away from the harvesting areas.

Reference is made to the qualifying species and the absence of assessment of impact on white clawed crayfish brook lamprey and salmon. Reference is made to section 4.1.1.1 of the revised NIS and the nature of the sluggish flow on the Figile River. There is also reference to the specific objectives of the SAC and also that discharges from bogs are not affecting water quality, which is disputed.

In considering species which are listed there is an absence of assessment of cumulative impacts arising in watercourses or explanation of the impact of sediment and eutrophication specifically arising from peat harvesting on species. The NIS, it is contended, fails to establish that the current status of the Barrow catchment is not affected by Bord Na Mona activities and in this regard reference is made to eutrophication, acidification sedimentation and dredging. It is also considered that the NIS fails to quantify the scale of pollution. It also having identified potential impacts failed to make connection to the role of its own activities in relation to these impacts or quantified the impacts. There is also an absence of cumulative assessment.

- 5.3.3.3 The applicant in response addresses the issue of water quality and drainage and refers to the characteristics of the Figile River and in particular section 7.3.1.2 of the revised NIS which outlines the characteristics of the river in particular the upper reaches of the catchment and the slow flow characteristics identified.

In relation to the scale of pollution and ecological impact there was a detailed review of water management plans which identify risk arising from diffuse pollution and peat harvesting was not identified as a risk for the Figile/Barrow

catchment and baseline studies were also presented, quantified and assessed.

In effect, the applicant contends that drainage has occurred to prevent meander and depositing conditions occurring, and the Figile River is in effect a drained river. The applicant states that it does not engage in the dredging of watercourses but removes sediment within drainage channels and sedimentation ponds as per the EPA Licence and these operations are outlined in section 7.3 of the revised NIS where discharge is controlled to prevent flooding.

The characteristics of the river are intrinsic to what species can be supported and reference is made to table 5.3 of the revised NIS in relation to crayfish in the river. The Figile river owing to its characteristics is not a suitable habitat for salmon or brook lampreys. In this regard the species referred to were assessed in the context of the watercourses and catchment linked to the bogs.

In relation to the scale of pollution and that attributable to peat harvesting the WMU action plans for the Upper Boyne and the Figile do not identify diffuse pollution from peat harvesting as a risk. The risks are clearly identified as nutrients primarily from agriculture and unsewered properties.

Risks, the applicant contends, have been assessed and there is no evidence to suggest Bord na Mona are having a negative impact on the Barrow catchment.

Sections 6.3.2.4 and 6.3.3.3 of the revised NIS address cumulative impacts.

In relation to qualifying species a detailed assessment was carried out of white clawed crayfish and reference is made to table 5.3 of the revised NIS and cumulative impacts are addressed in section 9 which concludes no adverse impact on the conservation objectives of white clawed crayfish.

Brook lamprey is addressed in section 5.3.2.2 of the revised NIS and in particular the conditions prevailing in the Figile River. The river is not an important recruitment area for the species and the report concludes no adverse impact on the conservation objectives of the species.

In relation to salmon reference is made to section 4.1.1.1 of the revised NIS and the nature of the sluggish flow on the Figile River. There is also reference to the specific objectives of the SAC and also that discharges from bogs are not affecting water quality.

In relation to mitigation it is indicated that mitigation measures are in accordance of the licence and reflect the terminology applied in the conditions of the licence. The mitigation measures are not flawed and are measures as prescribed and conditioned by the EPA licences.

In relation to the EPA study of the River Suir it cannot be assumed that the conditions on the Suir study area reflect conditions in relation to the River Barrow and River Boyne. Reference is made in this regard to the water quality status achieved upstream and downstream of peat extraction areas.

- 5.3.3.4 In relation to the issues raised in relation to identified potential effects in the screening stage the revised NIS assesses these potential effects. Specifically, in relation to the plant, these largely relate to issues of water abstraction and discharge in relation to process water and waste water as part of the operations of the plant and discharge issues to watercourses.

The potential of discharge of sediment to receiving waters is identified in relation to the operation of harvesting the bogs for the production of milled peat.

The revised Natura Impact Statement follows a structured order of identification of qualifying habitats and species and identification of potential effects in relation to the plant itself and the bogs identified with supplying peat to the plant; an assessment of these effects including whether a direct relationship and link is established; the elimination of qualifying habitats and species where there is no defined source pathway and receptor or magnitude of distance is identified (section 4.3) and whether effects when identified are significant in absence of mitigation. Cumulative and in-combination effects with other plans and projects are considered in Section 6 and mitigation measures are outlined in section 7. The approach and methodology as set out is, I consider, reasonable and robust.

In relation to the bogs which supply peat to the plant I would refer to section 3.2 of the revised NIS and, in particular, table 3.1 where the bogs are identified and also the processing of harvesting peat including drainage systems and measures to control silt.

The Figile River catchment is the primary area of focus as the bogs within the SAC are located within the catchment. Water quality is assessed in the context of characteristics of the river including river dredging. The NIS examines the prediction of impact in relation to conservation objectives arising from surface water run-off associated with the harvesting and supply of peat fuel to Edenderry Power Plant. It is also evident that matters relating to the watercourses such as dredging and channelisation are not matters for which the applicant is responsible for but has responsibilities within the bogs themselves and these are outlined in the revised NIS.

In relation to AA the primary issue to consider is whether the development individually and in combination with other plans or projects adversely affects the integrity of the European site concerned having regard to its conservation objectives. In this regard, I would note that activities, plans and projects can only be permitted where it has been ascertained that there would be no adverse effect on the integrity of a Natura 2000 site, apart from in exceptional circumstances.

In relation to the operation of the plant with the mitigation measures currently operating I am satisfied that, having identified potential effects on qualifying habitats, there would be no adverse effect on the integrity of a Natura 2000 site based on the information submitted. There are no significant effects arising from the abstraction and discharge of water used in the processing activities and mitigation measures are also in place to ameliorate impacts arising from these activities.

In relation to the bogs supplying milled peat to the plant within the River Barrow and River Nore SAC, having identified potential effects and carried out an assessment, in the absence of mitigation and outlined mitigation measures the revised NIS considered there would be no adverse effect on the integrity of a Natura 2000 site.

The issue of water quality is important in relation to qualifying interests and in relation to providing conditions to support qualifying species but the characteristics of the watercourses in relation to flows and drainage are also of importance. It is also noted that other identified activities can affect water quality and that the water quality status of a watercourse can be attributable to these activities. The flow pattern of the watercourses and drainage is not a matter of responsibility for the applicant. Equally other activities, other than harvesting of peat impact on the water quality of the water courses and these are indicated and assessed in the NIS.

I would note that there is no clear causal effect established on water quality upstream and downstream of watercourses drained by bogs or that the quality status is solely and directly attributable to peat extraction or that there are adverse effects on qualifying species in these watercourses which are sub optimal for the support of these species. There are mitigation measures in situ which control sedimentation and run off from the working bogs to watercourses.

Although reference is made in the submissions to the adequacy and robustness of the mitigation measures it has to be considered that these bogs are regulated bogs as they are licenced by the EPA and subject to monitoring and review by the licencing authority. The bogs have a direct and identified source pathway receptor linkage to the SAC. There are measures in place in relation to control of discharge to the receiving watercourses and in relation to the rate of discharge and the nature of the discharge by controlling discharge of sediment by the installation of silt traps.

Having considered the documentation submitted and the submissions in relation to the bogs supplying milled peat to the plant in relation to the River Barrow and River Nore SAC I am satisfied that there would be no adverse effect on the integrity of a Natura 2000 site subject to implementation of the mitigation measures as stated.

5.3.4 River Boyne and River Blackwater SAC.

- 5.3.4.1 The Boyne and River Blackwater SAC has a direct hydrological link to a significant percentage of the harvested bogs supplying the plant. The screening report identified potential effects arising from the harvesting of the bogs and the effects largely related to qualifying species rather than habitats and which I have already referred to in this report. The submissions received have generally focussed on species and the main threats to the SAC; the importance of good water quality; eutrophication and also the issue of drainage and dredging.
- 5.3.4.2 The submission of An Taisce refers to the poor status of water quality in proximity to the bogs and a lack of explanation of whether absence of spawning is attributable to the peat harvesting. There is also, it is considered, an absence of assessment of Bord Na Mona activities and in this regard reference is made to eutrophication, acidification sedimentation and dredging and failure to quantify the scale of pollution. It also having identified potential impacts failed to make the connection to the role of its activities in relation to these impacts or quantified the impacts. There is also an absence of cumulative assessment.
- 5.3.4.3 In the applicant's response in relation to the scale of pollution and ecological impact there was a detailed review of water management plans which indicated diffuse pollution and peat harvesting was not identified as a risk for the Boyne catchment. Baseline studies were also presented, quantified and assessed.

No dredging is carried out of watercourses by Bord na Mona and cumulative impacts are considered in the revised NIS and sections 4.3.1, 4.4.1, 6.3.2.4 and 6.3.3.3 of the revised NIS are referred to in this regard.

The upper catchment is not considered suitable for spawning of qualifying species given the characteristics of the river catchment downstream and the extent of anadromy which considers the distance of the estuary area from the catchment area effected by peat harvesting.

Similar conditions generally apply in relation to salmon but there is recognised potential for salmon spawning in the Yellow River which has discharge from harvested bogs. Mitigation measures are outlined in relation to this section of the catchment in accordance with the EPA licence in chapter 7 of the revised NIS.

In relation to the otter species the revised screening report in section 4.1.2.4 considered water quality and consequent impact on fish biomass and consequent impacts on larger species including otters. Impacts are identified as extremely unlikely and the issue of sub optimal habitat conditions for the species were also considered. As a consequence, the species was screened out of AA.

5.3.4.4 In relation to the issues raised, having identified potential effects in the screening stage, the revised NIS assesses these potential effects, which largely relate to potential of discharge of sediment to receiving waters arising from the operation of harvesting the bogs with the potential of consequent impact on the receiving waters and in particular qualifying aquatic species in these watercourses.

No issues are identified in relation to the plant operations and I would agree with the conclusion given the absence of any direct and identifiable source pathway receptor link.

The revised Natura Impact Statement follows a structured order of identification of qualifying habitats and species and identification of potential effects in relation to the plant itself and the bogs identified as supplying peat to the plant; an assessment of these effects including whether a direct relationship and link is established; the elimination of qualifying habitats and species where there is no defined source pathway and receptor or magnitude of distance is identified (section 4.3) and whether effects, when identified, are significant in absence of mitigation. Cumulative and in-combination effects with other plans and projects are considered in Section 6 and mitigation measures are outlined in section 7. The approach and methodology as set out is, I consider, reasonable and robust.

In relation to the bogs which supply peat to the plant I would refer to section 3.2 of the revised NIS and in particular table 3.1 where the bogs are identified and also the processing of harvesting peat including drainage systems and measures to control silt.

The Boyne River catchment is the primary area of focus as the bogs within the SAC are located within the catchment. Water quality is considered in the context of the Upper Boyne Water Management Unit which considers “at risk” factors and peat harvesting was not identified as a risk for the Upper Boyne catchment. Baseline studies were also presented, quantified and assessed in support of this position and there is reference to other activities, in particular, intensive agriculture as a source of risk.

The issue of drainage and dredging is referred to and the applicant has indicated that Bord na Mona do not engage in dredging of watercourse but has responsibilities in relation to drainage and the control of silt and sediment within the working bogs and these are outlined in the revised NIS.

In relation to AA the primary issue to consider is whether the development individually and in combination with other plans or projects adversely affects the integrity of the European site concerned having regard to its conservation objectives. In this regard I would note that activities, plans and projects can only be permitted where it has been ascertained that there would be no adverse effect on the integrity of a Natura 2000 site, apart from in exceptional circumstances.

In relation to the bogs supplying milled peat to the plant within the River Boyne and River Blackwater SAC, having identified potential effects and carried out an assessment in the absence of mitigation and subsequently outlined mitigation measures. The revised NIS considered there would be no adverse effect on the integrity of the SAC. I am satisfied in relation to the assessment as presented in this regard.

The primary potential effect identified relates to the issue of water quality in providing conditions to support qualifying species of conservation interest to the SAC. It is also noted that other identified activities other than harvesting of peat impact on the water quality of the water courses and these are indicated and assessed in the NIS.

I would note that there is no clear causal effect established on water quality upstream and downstream of watercourses drained by bogs or that the quality status is solely and directly attributable to peat extraction or that there are adverse effects on qualifying species in these watercourses which are sub optimal for the support of these species.

I would also note that the Yellow River within the catchment is identified as likely to support salmon and there are specific mitigation measures outlined in table 7.2 of the revised NIS to mitigate against adverse impacts on water quality in relation to the bogs which have a hydrological connection to the Yellow River. There are also mitigation measures in situ which control sedimentation and run off from the working bogs to watercourses generally.

Although reference is made in the submissions to the adequacy and robustness of the mitigation measures it has to be considered that these bogs are regulated bogs as they are licenced by the EPA and subject to monitoring and review by the licencing authority. The bogs have a direct and identified source pathway receptor linkage to the SAC. There are measures in place in relation to control of discharge to the receiving watercourses and in relation to the rate of discharge and the nature of the discharge by controlling discharge of sediment by the installation of silt traps.

Having considered the documentation submitted and the submissions in relation to the bogs supplying milled peat to the plant in relation to the River Boyne and River Blackwater SAC I am satisfied that there would be no adverse effect on the integrity of a Natura 2000 site subject to implementation of the mitigation measures as stated.

There is reference to otters generally in the An Taisce submission but they are specifically referred to as a qualifying interest in the River Boyne and River Blackwater SAC. I would accept that as an apex species they are dependent on other species and biomass for survival but there is also a presumption that otters will inhabit stretches of watercourses which are optimal for their habitation and a number of factors relating to the watercourse including cover and availability of food sources will determine this. The matter of otter was assessed in the revised NIS and I am satisfied

that the issue was addressed in relation to determining that the catchments are sub optimal.

6.0 General matters are also referred to in the submissions.

- 6.1 There are matters raised by Mr Hoey indicating that the current proposal is invalid for the purpose of extending the continued use and operation of the EPP until 2030; that the current proposal does not provide for the retention of new feedstock handling system or to retain any of the structures previously permitted and constructed on the site on the foot of previous applications. It is contended that there is no application for the extraction of peat and it entirely impermissible for the Board to grant permission for the continued destruction of the raised bogs and to other bogs impacting on the connected Barrow, Boyne and Shannon SACs.

That there is a failure to consider direct and indirect effects also which should include private operators removing peat from this extensive network of raised bog lands within the catchments of the Barrow, Boyne and Shannon SACs and the further information fails utterly to address indirect affects and ignored direct effects.

- 6.2 There is also a submission from Arthur Cox Solicitor on behalf of the applicant in response to the submission of Mr Hoey which indicates that the current application is for the continued use and operation of the power plant to 2030 and there is no requirement for the applicant to seek permission to retain any of the structures authorised and constructed in reliance on previous grants of planning permission.

In relation to peat extraction the High Court Judgement did not consider the issue of whether or not planning permission was required for ongoing peat extraction and reference is made to paragraph 17 of the judgement in this regard.

The applicant has responded to the Board's request of further information in a complete, precise and scientifically robust assessment in relation to the revised screening report and revised NIS. Table 6.7 presents the water quality status of water bodies within the catchment of the River Barrow associated with bogs identified and associated with supplying peat.

Only peat bogs which currently and will continue to supply peat were assessed for the purpose of the habitats directive and the bogs are identified in table 2.1 of the revised screening report.

- 6.3 The application as submitted is for the extension of the continued use and operation until the end of 2030 of previously permitted peat and biomass co-fired power plant currently existing and the use of which was limited in duration by the previous permission. I do not consider that the making of such an application is invalid.

In relation to consideration of direct and indirect effects Mr Hoey is correct that such a requirement is necessary but the consideration of direct and indirect effects relates to the project under consideration and tangible direct and indirect effects. The screening report has assessed potential to give rise to effects in relation Natura 2000 sites of the project but has also considered in-combination with other plans and projects as I have already indicated and was I consider robust in the identification and assessment during the screening process.

7.0 CONCLUSIONS.

The documentation includes a revised Natura Impact Statement which arose from a screening report which concluded Stage 2 AA was required and I would agree with this conclusion.

The revised screening report, I consider, has addressed the issues raised in my report dated the 25th of February 2016 in particular in relation to identification and screening all of the peat bogs identified as servicing the power plant, the absence of a satisfactory level of information in relation to identification and screening of sites relating to the commercial extraction of peat and the absence of a proven identifiable link to Natura sites either individually or in combination with other plans or projects.

In relation to the revised Natura Impact statement I am satisfied that matters relating to whether the project is likely to have a significant effect, either individually or in combination with other plans and project, on the European sites in view of the site's conservation objectives has been assessed.

The Natura Impact Assessment has identified all the European sites which could potentially be affected using the Source-Pathway-Receptor mode and identified the Conservation Objectives for these sites.

I consider that the documentation as submitted has provided sufficient information to determine whether or not likely significant effects, either individually or in combination with other plans or projects, on the European sites can be reasonably ruled in or ruled out on the basis of objective scientific information

I have considered the mitigation measures as proposed and examined and evaluated the potential effects of the project on the conservation objectives of the sites taking account of the mitigation measures as outlined. I would note in this regard that many of the measures are in place and subject to approval under a permitted licence in relation to the harvesting of peat.

Having considered the documentation as submitted, including submissions from all parties, I do not consider that the project would adversely affect the integrity of the European sites, either individually or in combination with other plans or projects, in view of the site's conservation objectives.

I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate to carry out Stage 2 AA, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European Site Nos 0000925, 002162 and 002299, or any other European site, in view of the site's Conservation Objectives.

8.0

RECOMMENDATION.

I would therefore recommend that permission be granted.

REASONS AND CONSIDERATIONS

Having regard to

- (a) the site's planning history and the presence of a previously permitted peat and biomass co-fired power plant on the site.
- (b) the national policy in relation to renewable energy and specifically energy generation from biomass as set out in the Strategy for Renewable Energy 2012-2020, the National Renewable Energy Action Plan (NREAP) 2010 and the Draft National Bioenergy Plan.
- (c) the provisions of the Offaly County Development Plan 2014-2020 including policy EP-08 relating to the facilitation of the continuance of power generation stations within the county,
- (d) the Environmental Impact Statement;
- (e) the Natura Impact Statement;
- (f) the submissions made in connection with the planning application and the appeal,

it is considered that, continued use and operation of a previously permitted peat and biomass co-fired power plant, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the site no 0000925 Long Derries Special Area of Conservation, site no 002162 River Barrow and River Nore Special Area of Conservation and site no 002299 River Boyne and River Blackwater are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications

of the proposed development for European Sites in view of the site's Conservation Objectives 0000925 Long Derries Special Area of Conservation, 002162 River Barrow and River Nore Special Area of Conservation and 002299 River Boyne and River Blackwater.

The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

- In completing the assessment, the Board considered, in particular, the
- i) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
 - ii) mitigation measures which are included as part of the current proposal,
 - iii) Conservation Objectives for these European Sites,
 - iv) The view of the Department of Arts, Heritage and the Gaeltacht, and

In completing the AA, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the site's Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European site(s) in view of the site's Conservation Objectives.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The permission shall have effect on the 30th of November 2030. The electricity generating station shall then be removed in accordance with condition number 2(2) of the parent permission governing the development at this location (An Bord Pleanála appeal reference number PL19.107858) unless, prior to the end of that period, planning permission shall have been granted for the retention of the development for a further period.

Reason: To provide for the orderly decommissioning of the electricity generation station and to enable the impact of the development to be

reassessed, having regard to changes in technology and emissions requirements.

3. This permission shall be for the co-fuelling of peat with biomass (as defined in the planning application) to a maximum of 300,000 tonnes per annum of biomass of which meat and bone meal (MBM) may constitute a maximum 60,000 tonnes per annum.

Reason: To clarify the nature and extent of the development.

- 4 All mitigation measures as outlined in the revised Natura Impact Statement shall be implemented.

Reason: To ensure the satisfactory operation of the plant and harvesting of peat in a manner to safeguard the receiving environment.

- 5 Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision of the decommissioning of the plant when electricity generation operations cease, coupled with an agreement empowering the local authority to apply such security or part thereof to secure such decommissioning. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory decommissioning of the plant when electricity generation operations cease

Derek Daly

Senior Planning Inspector.

4th November 2016.