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# An Bord Pleanála



## Supplementary Inspector's Report

Ref.: PL08.246205

Development: The construction of an underground grid connection and a short section of access track for the Cloghaneleskirt Wind Farm. This application is intended to amend a short section of the route of the underground grid connection consented under approved planning reference 2015/318. The underground grid connection is required for the construction and operational phases of the aforementioned planning reference.

Cloghboola, Glantaunyalkeen, Co. Kerry.

INSPECTOR: Robert Speer

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## **1.0 INTRODUCTION**

1.1 This supplementary report has been prepared in response to a Board Direction issued on 12<sup>th</sup> September, 2016 which sought the preparation of an 'Addendum Report' in respect of the Environmental Impact Assessment and Appropriate Assessment of the proposed development. It should be read in conjunction with the information which accompanied the initial planning application, including the EIS, the grounds of appeal and my earlier inspector's report.

## **2.0 ENVIRONMENTAL IMPACT ASSESSMENT:**

2.1 With regard to the concerns raised in the grounds of appeal that inadequate information has been submitted with the subject application to permit an effective assessment of the potential cumulative and in-combination impacts of the proposed works when taken in conjunction with other existing, permitted and planned wind energy developments in the area, with particular reference to the Dromadda Beg, Cloghboola & Cloghaneleskirt wind farms, I would reiterate that the subject proposal effectively involves the revision of the underground grid connection previously permitted under PA Ref. No. 15318 and that those works were not deemed by the Planning Authority to involve a class of development which is prescribed for the purposes of Section 176 of the Planning and Development Act, 2000, as amended, and thus there was no requirement for that planning application to be accompanied by an Environmental Impact Statement. In this regard it is also notable that PA Ref. No. 15318 was screened for the purposes of 'sub-threshold' environmental impact assessment and that the Planning Authority further determined that the works in question were unlikely to have any significant effects on the environment having regard to the criteria set out under Schedule 7 of Regulations and thus did not necessitate the submission of an EIS. Accordingly, given that the subject works are considerably less significant in terms of their overall scale when compared to the approved grid connection, it would seem somewhat disproportionate to necessitate the submission of an EIS with regard to same. In addition, given that the subject proposal is essentially limited to a relatively minor revision of an approved development and does not require the wider project to be assessed from first principles, it is my opinion that the submission of an EIS is not required in this instance. Furthermore, in respect of the appellant's reference to the judgement made in the case of *O'Grianna v. An Bord Pleanala and Others*, I would advise the Board that the circumstances of the subject proposal differ somewhat from the project considered in that instance in that the existing Cloghboola Wind Farm

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has already been constructed having undergone environmental impact assessment as part of the consent process whilst the Dromadda Beg & Cloghaneleskirt wind farms have also already been subjected to environmental impact assessment and have the benefit of planning permission. In addition, it is of further relevance to note that the development of a 110kV substation / compound and associated single control building etc. to serve the Cloghboola Wind Farm was approved under PA Ref. No. 13234 (as an amendment of PA Ref. No. 10616) whilst the subject amendment of the permitted grid connection will follow (in part) the line of a forestry track which has already received the approval of the Department of Agriculture, Food and the Marine, subject to conditions. Therefore, unlike the 'O'Grianna' case wherein it was held that the proposed development of a wind farm in isolation from the future provision of a grid connection amounted to 'project-splitting', in the subject instance, all of the wind farms in question already have the benefit of planning permission (with the Cloghboola Wind Farm having been constructed and commissioned) whilst the supporting infrastructure has similarly been approved. Furthermore, it is clear that the potential cumulative and in-combination impacts of the Dromadda Beg Wind Farm and the Cloghboola Wind Farm were already addressed as part of the Environmental Impact Statement which accompanied PA Ref. No. 13/544 / ABP Ref. No. PL08.243573 and in this respect the Board is referred to its determination of that appeal and, more particularly, to the contents of its order wherein it is stated that the Board adopted *'the Inspector's report on the Environmental Impact Statement and concurred with its conclusions'* and that it considered that *'the Environmental Impact Statement submitted with the planning application, and other submissions on file, was adequate in identifying and describing the direct and indirect effects of the proposed development'*. Notably, in his analysis of the Environmental Impact Statement in that instance the reporting inspector recorded that *'the overall cumulative and indirect impacts are quite minor'* and that *'as the proposed development can 'piggyback' on infrastructure provided with the 20 turbine windfarm [i.e. the Cloghboola Wind Farm] (in particular, maintenance access roads, electricity connection and construction access), many potential impacts are significantly less than for a stand-alone windfarm facility'*. In view of the foregoing, I am similarly inclined to form the opinion that any overall cumulative impact arising as a result of the proposed development would be minor and potentially of less significance than that associated with the alignment of the grid connection as already approved under PA Ref. No. 15318.

2.2 At this point I would also reiterate that although the access road proposed as part of the subject proposal was not included within the site boundary of PA Ref.

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No. 13/544 / ABP Ref. No. PL08.243573, a section of same was shown in the plans and particulars which accompanied that application and as the in-combination and cumulative impacts of the (amended) Dromadda Beg Wind Farm (as was then proposed) and the (existing) Cloghboola Wind Farm were clearly assessed in the Board's determination of ABP Ref. No. PL08.243573, and as that assessment would seem to have included consideration of the planned access arrangements which subsequently form part of the subject appeal, there would seem to be no clear rationale which would warrant the revisiting of the conclusions drawn as part of the environmental impact assessment of the earlier application (although I would concede that the cabling connection between the Cloghboola & Dromadda Beg Wind Farms did not form part of the aforementioned earlier approvals).

2.3 Having considered the nature and scale of the works proposed, it remains my opinion (as set out in Section 10.2.5 of my earlier inspector's report) that the subject proposal does not involve a class of development prescribed for the purposes of Section 176 of the Planning and Development Act, 2000, as amended, as set out in Parts 1 & 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, and, therefore, it does not necessitate the preparation of an Environmental Impact Statement. In this respect, I would advise the Board that a critical analysis of Parts 1 & 2 of Schedule 5 of the Regulations serves to clarify that no element of the development proposal involves a class of development prescribed for the purposes of Section 176 of the Act.

2.4 In support of the foregoing, whilst I would acknowledge that Class 20 of Part 1 of Schedule 5 refers to the '*Construction of overhead electrical power lines with a voltage of 220 kilovolts or more and a length of more than 15 kilometres*', it is clear that the submitted proposal does not fall within this class of development on the basis that it involves the laying of an underground grid connection as distinct from an 'overhead' electrical power line. In addition, the proposed section of cable route will only extend for a distance of 946m and thus is significantly less than the prescribed length of more than 15 kilometres set out in Class 20. Furthermore, even if the proposed cabling were to be assessed in-combination with the remainder of the underground grid connection for the Cloghaneleskirt Wind Farm as previously authorised under PA Ref. No. 15/318 (which extended to c. 7.9km in length), the combined length of the new cable route would be significantly less than the distance criteria prescribed under Class 20 of Part 1 of Schedule 5 of the Regulations, notwithstanding the fact (as previously outlined) that the development in question does not involve the construction of an

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'overhead' power line. Accordingly, on the basis of the foregoing, it is clear that the proposed underground grid connection does not involve a class of development prescribed for the purposes of Section 176 of the Planning and Development Act, 2000, as amended, as set out in Parts 1 & 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, and, therefore, it does not necessitate the preparation of an Environmental Impact Statement.

2.5 With regard to the proposal to construct 141m of new access road to link with the neighbouring Cloghboola Wind Farm, when taken in conjunction with the new section of forestry track which has already received the approval of the Department of Agriculture, Food and the Marine, it is similarly clear that even the combined length of these works (c. 1.0km) falls significantly short of the criteria set out in Class 10(dd) of Part 2 of Schedule 5 of the Regulations which refers to the development of *'All private roads which would exceed 2000 metres in length'*.

2.6 In terms of sub-threshold development, I would refer the Board to Class 15 of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, which states that *'Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7'*. In this respect it is necessary to screen the proposed development for the purposes of environmental impact assessment having regard to the characteristics of the proposed development, the location of the proposed development, and the characteristics of potential impacts, as set out in Schedule 7 of the Regulations in order to determine whether or not the development in question would be likely to have any significant effects on the environment. It should also be noted that in addition to the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended, Article 109(3) states that where an appeal relates to a planning application for sub-threshold development, and an EIS was not submitted to the planning authority, the Board shall, in determining whether the development would or would not be likely to have significant effects on the environment, have regard to the likely significant effects of the development on the following sites, areas, lands, places or features as appropriate:

- a) a European site,
- b) an area the subject of a notice under section 16 (2)(b) of the Wildlife (Amendment) Act 2000 (No. 38 of 2000),

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- c) an area designated as a natural heritage area under section 18 of the Wildlife (Amendment) Act 2000,
  - d) land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act 1976 (No. 39 of 1976) as amended by sections 26 and 27 of the Wildlife (Amendment) Act 2000,
  - e) land designated as a refuge for flora or as a refuge for fauna under section 17 of the Wildlife Act 1976 as amended by section 28 of the Wildlife (Amendment) Act 2000,
  - f) a place, site or feature of ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan, draft development plan or draft local area plan, or proposed variation of a development plan, for the area in which the development is proposed,
  - g) a place or site which has been included by the Minister for Arts, Heritage and the Gaeltacht in a list of proposed Natural Heritage Areas published on the National Parks and Wildlife Service website.

2.7 Accordingly, on the basis that the proposed development involves the construction of a section of private roadway which is less than the limit specified in Class 10(dd) of Part 2 of Schedule 5, a determination as to whether the sub-threshold development in question would or would not be likely to have significant effects on the environment can be undertaken as follows:

*2.8 The Characteristics of the Proposed Development (in particular):*

*2.8.1 The size of the proposed development:*

2.8.1.1 The subject proposal effectively involves the relatively minor revision of the underground grid connection previously permitted under PA Ref. No. 15318 which was not deemed by the Planning Authority to warrant the preparation of an environmental impact statement. From a review of the available information, it is apparent that the proposed development only involves the construction of 141m of new roadway and, therefore, it is my opinion that the limited scale and extent of the works proposed are unlikely to give rise to any significant effects on the environment.

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### 2.8.2 *The cumulation with other proposed development:*

2.8.2.1 With regard to the potential cumulative impact with other proposed development, it is of relevance at the outset to note that although the proposed access road was not included within the site boundary of PA Ref. No. 13/544 / ABP Ref. No. PL08.243573, a section of same was nevertheless shown in the plans and particulars which accompanied that application wherein it was expressly indicated that *'The Dromadda Beg Wind Farm Extension project is adjacent to the consented Cloghboola Wind Farm development area and infrastructure will be shared including the access roads and haulage route'*. Accordingly, the case could be made that part of the access road in question was previously considered in the assessment of ABP Ref. No. PL08.243573. In this respect I would advise the Board that consideration was previously given to part of the access road in its assessment of ABP Ref. No. PL08.243573 and that it adopted *'the Inspector's report on the Environmental Impact Statement and concurred with its conclusions'* before stating that *'the Environmental Impact Statement submitted with the planning application, and other submissions on file, was adequate in identifying and describing the direct and indirect effects of the proposed development'*. Further credence is given to the foregoing assertion in that the reporting inspector recorded in his analysis of the Environmental Impact Statement for ABP Ref. No. PL08.243573 that *'the overall cumulative and indirect impacts are quite minor'* and that *'as the proposed development can 'piggyback' on infrastructure provided with the 20 turbine windfarm [i.e. the Cloghboola Wind Farm] (in particular, maintenance access roads, electricity connection and construction access), many potential impacts are significantly less than for a stand-alone windfarm facility'*.

2.8.2.2 Notwithstanding the foregoing, in terms of the potential for cumulative constructional impacts, it is apparent that any construction traffic associated with the development of the new access road will avail of the existing maintenance access roads serving the Cloghboola Wind Farm and will also likely utilise the same haul routes as those approved for the development of the Dromadda Beg Wind Farm under PA Ref. No. 13/544 / ABP Ref. No. PL08.243573 and the installation of the wider grid connection permitted under PA Ref. No. 15318. Accordingly, the likelihood is that the proposed works will be undertaken in tandem with the construction of the aforementioned projects which will serve to limit the overall impact and duration of the combined developments. Furthermore, any traffic generated during the construction of the proposed development will be for a temporary defined period and will only have a minor additional impact when taken in conjunction with that associated with the adjacent wind farm / grid connection development.

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2.8.2.3 In terms of potential cumulative operational impacts, given the nature and purpose of the proposed development, it is my opinion that the subject works will not give rise to any significant additional impacts, such as traffic generation, over those associated with the operation of the Cloghboola, Dromadda Beg & Cloghaneleskirt wind farms.

*2.8.3 The nature of any associated demolition works:*

2.8.3.1 The proposed development does not involve any demolition works and will only necessitate limited excavation works to accommodate the construction / upgrading of the access roadway and the laying of the grid connection. In this respect it is of further relevance to note that the new section of access track will comprise a floating road laid on the surface of the bog and will therefore avoid any requirement for the excavation of peat.

*2.8.4 The use of natural resources:*

2.8.4.1 The proposed road construction will comprise a 600mm capping layer on 2 No. layers 300mm of 100mm down quarried rock separated by a suitable geogrid on a combined layer of geogrid and geotextile over the existing undisturbed peat layer. In my opinion, the importation and use of such materials would be typical of road construction and would not give rise to any unusual, significant or adverse effects of a type that would require environmental impact assessment.

*2.8.5 The production of waste:*

2.8.5.1 Given the nature of the proposed construction as a 'floating' road atop the existing peat layer, the generation of constructional waste will be limited and is unlikely to be of such significance as to give rise to any impacts which would warrant environmental impact assessment.

*2.8.6 Pollution and nuisances:*

2.8.6.1 The proposed development involves the construction of a limited section of new access road in order to facilitate the revised routing of a previously permitted grid connection, and, of itself, will not generate any significant additional vehicle movements, changes in composition of traffic or increases in congestion. Furthermore, the nature, design and scale of the proposed works is such that there would be no significant wastes or pollution generated during either the construction or operational phases. In addition, it is my opinion that the potential for any nuisance impacts arising during the construction stage, such as



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by way of dust or noise generation, could be satisfactorily mitigated by way of an appropriate construction management plan and adherence to best practice.

*2.8.6.2 The risk of accidents, having regard to substances or technologies used:*

It is not considered likely that the proposed development would have any adverse impact in terms of the risk of accidents.

*2.9 The Location of the Proposed Development (The environmental sensitivity of geographical areas likely to be affected by the proposed development, having regard in particular to):*

*2.9.1 The Existing Land Use:*

2.9.1.1 The proposed development site is located in an elevated upland area of the Glanaruddery Mountains where the surrounding rural landscape is predominantly characterised by blanket bog, degraded / cutover bog and conifer plantations interspersed with intermittent instances of one-off rural housing. It also forms part of a wider landholding held in multiple ownerships which encompasses the recently constructed Cloghboola Wind Farm and those lands approved for the future development of the Dromadda Beg Wind Farm. It is accessed via a series of existing private access tracks / roadways (including turbary tracks associated with historical peat-harvesting).

*2.9.2 Natural Resources and the Natural Environment in the Area:*

2.9.2.1 With regard to natural resources, whilst the wider landscape encompasses an upland area of blanket bog, degraded / cutover bog and conifer plantations, the new section of access road will extend for approximately 85m through conifer forestry in addition to c. 10m of blanket bog and c. 41m of cutover bog with the remaining 5m of its length passing over an area of wet heath. Furthermore, in terms of landscape designation and overall visual sensitivity, it should be noted that the proposed development site is located within an area which has been designated as 'Rural General' in the Kerry County Development Plan, 2015-2021 and that these landscapes generally have a higher capacity to absorb development i.e. development in these areas can be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development.

2.9.2.2 In terms of environmental sensitivity it is of particular relevance to note that the application site is located within the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161) which has been designated as being of special conservation interest on the basis that it supports the Hen Harrier (*N.B.* The site is considered to be a

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stronghold for the Hen Harrier and supports the largest concentration of the species in the country). This is an extensive designation which is centred on the borders between the counties of Cork, Kerry and Limerick, and consists of a variety of upland habitats, though almost half is afforested. The coniferous forests include first and second rotation plantations, with both pre-thicket and post-thicket stands present. Substantial areas of clear-fell are also present at any one time. In this respect it should be noted that the site synopsis for the SPA states that the mix of forestry and open areas within the designation provides optimum habitat conditions for the hen harrier with the early stages of new and second-rotation conifer plantations being the most frequently used nesting sites (although some pairs may still nest in the tall heather of unplanted bogs and heath) whilst foraging will be undertaken up to c. 5 km from the nest site in areas of open bog and moorland, young conifer plantations and hill farmland that is not too rank. In addition to the foregoing, both the Short-eared Owl and Merlin have been known to breed within the SPA whilst Red Grouse are to be found on some of the unplanted areas of bog and heath.

2.9.2.3 The application site is also located upstream of the Lower River Shannon Special Area of Conservation (Site Code: 002165) and drains towards same, however, whilst the proposed development will involve the crossing of drainage ditches, no in-stream works are proposed and thus the potential for water-based / pollution / contamination impacts is reduced accordingly.

2.9.2.4 With regard to cultural heritage considerations, there are no recorded monuments or protected structures either on site or in the immediate vicinity of same.

## 2.10 The Characteristics of Potential Impacts:

### 2.10.1 Extent of the Impact:

2.10.1.1 It is clear that the extent of the impact will be quite limited in relation to the area of the development and the size of the affected population. Furthermore, whilst I would acknowledge that the proposed works will result in the loss of a small area of habitat which is potentially suitable for foraging by the hen harrier, I am inclined to suggest that the impact of same will be minimal given the specifics of the site context, including its relationship with nearby wind farm developments, and the prevalence of more suitable and undisturbed habitat elsewhere within the wider Special Protection Area.

2.10.1.2 With regard to the potential for downstream impacts on water quality within the Lower River Shannon Special Area of Conservation, it is my opinion

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that the potential for any water pollution impacts etc. during the course of constructional works can be satisfactorily mitigated by way of condition and adherence to best practice construction management.

*2.10.2 Transfrontier Considerations:*

2.10.2.1 The proposed development will not give rise to any transfrontier impacts.

*2.10.3 Magnitude and Complexity of the Impact:*

2.10.3.1 The principal aspects of the environment that will likely be affected by the proposed works include human beings, fauna and flora, soil, water, and the landscape, however, many of these impacts will be localised and primarily occur during the construction period e.g. emissions to air, noise and vibration, disruption to traffic etc. Accordingly, it is my opinion that the overall magnitude of the impacts arising will be low.

*2.10.4 Probability of the Impact*

2.10.4.1 Whilst the identified loss of habitat is an inherent part of the proposed development, and there is also the possibility of certain impacts arising during the construction stage (i.e. noise, dust, traffic, water quality), it is my opinion that the extent of these impacts will not be significant.

*2.10.5 Duration, Frequency and Reversibility of the Impact.*

2.10.5.1 It is clear that the physical development will be of a permanent nature and that its effects would not be reversible, however, there must also be an acknowledgment of the short term nature of those impacts arising during the construction stage.

*2.11 Sub-Threshold EIA Screening Conclusion:*

2.11.1 Having considered the foregoing, including the limited scale of the proposed development, the environmental sensitivity of the area affected, and the guidance set out in Schedule 7 of the Planning and Development Regulations, 2001 and in the *'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development'* issued by the Department of the Environment, Heritage and Local Government, it is considered that the proposed development would not be likely to have significant effects on the environment and that, consequently, the preparation and submission of an environmental impact statement is not required.

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### **3.0 APPROPRIATE ASSESSMENT:**

#### **3.1 Stage 1: Screening:**

3.1.1 In screening the subject proposal for the purposes of appropriate assessment, I would refer the Board at the outset to the screening exercise undertaken by the applicant which has identified the following 3 No. Natura 2000 sites within a 15km radius of the proposed development site:

- The Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161);
- The Lower River Shannon Special Area of Conservation (Site Code: 002165); and
- The Moanveanlagh Bog Special Area of Conservation (Site Code: 002351).

3.1.2 In this respect, following a review of the available mapping, including Map Nos. 10.1(a) & 10.2(a) of the Kerry County Development Plan, 2015 and the data maps available from the website of the National Parks and Wildlife Service, it can be confirmed that there are no other Natura 2000 sites which are likely to be impacted by the proposed development.

3.1.3 With regard to the Moanveanlagh Bog Special Area of Conservation, which is located c. 12.8km from the proposed development site, the screening exercise has concluded that in view of the qualifying interests of the SAC and the scale of the proposed works, there is no potential for the subject proposal to give rise to any adverse impacts on that particular European Site. In this respect I would concur with the applicant that in light of the considerable separation distance between the application site and the Special Area of Conservation, in addition to the absence of any hydrological connection between the two sites (most notably due to the intervening location / presence of the River Feale), there is no potential for the subject proposal to adversely impact on that particular European Site.

3.1.4 In relation to the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area, which has been designated as being of special conservation interest on the basis that it supports the Hen Harrier, given the site location within same, the ecological requirements of the protected bird species in question, and the characteristics of the works proposed, I would reiterate that it is not possible to rule out the likelihood of the proposed development significantly impacting on the Hen Harrier as a result of disturbance

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and a direct loss of foraging habitat thereby threatening the qualifying interests of the site and undermining the relevant conservation objective which seeks to *'Maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA'*.

3.1.5 Similarly, I would concur with the applicant's screening conclusions as regards the need to consider the likelihood of the proposal to have a significant effect on the conservation objectives of the Lower River Shannon Special Area of Conservation given the potentially significant impacts on water quality which could arise from any runoff of sediment and / or pollutants into the SAC during the construction of the proposed development. In this regard the Board is advised that the site is located within a wider catchment that drains towards the SAC via a series of drainage ditches and that any deterioration in water quality downstream as a result of the proposed construction works (such as by way of sedimentation, pollution or other contamination) could potentially have an adverse impact on those protected aquatic habitats and species within the SAC which are to be maintained and / or restored to a favourable conservation condition pursuant to the relevant conservation objectives.

3.1.6 Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the likelihood of the proposed development significantly and negatively affecting the aforementioned Natura 2000 sites cannot be objectively ruled out and therefore it is necessary to proceed to 'Appropriate Assessment (Stage 2)'.

### 3.2 Stage 2: 'Appropriate Assessment':

3.2.1 The subject application has been accompanied by a Natura Impact Statement and I would refer the Board to this document as a basis on which to assess the likely impact of the proposed development.

3.2.2 Section 4.2 of the Natura Impact Statement considers the potential significant impacts of the respective elements of the proposed development on the qualifying interests of the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area and the Lower River Shannon Special Area of Conservation and can be summarised as follows:

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3.2.3 *Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area:*

- 3.2.3.1 *Potential Impact:* Site avoidance (due to habitat loss / displacement) by breeding or foraging hen harrier:

3.2.3.2 *The underground cable route:*

3.2.3.2.1 The majority of the proposed cabling route will occur along an approved forestry track and as the associated excavation works etc. will be confined to within the road corridor, this element of the proposed development will not result in the loss or disturbance of any habitat of value to the hen harrier.

3.2.3.2.2 With regard to the remainder of the proposed cable route, whilst this will extend through an existing area of semi-natural habitat that includes cutover bog, blanket bog and wet heath, this aspect of the works will be carried out in conjunction with the laying of the new section of proposed access road and will be confined to within the corridor of that road. Accordingly, the provision of the proposed cabling will not result in any additional habitat loss over that associated with the roadway construction and will not lead to any displacement effects on hen harrier from the area.

3.2.3.3 *New road construction:*

3.2.3.3.1 In relation to the construction of the new section of roadway which will link with the existing Cloghboola Wind Farm (and the permitted Dromadda Beg Wind Farm), this will result in the direct loss of 0.1 hectares of habitat which is potentially suitable for foraging by the hen harrier, however, it has been submitted that this extent of habitat loss is unlikely to lead to any perceptible displacement of hen harrier from the area and, therefore, subject to the controls and mitigation measures set out in the NIS, no significant impacts on the conservation status of the SPA are foreseen.

- 3.2.3.4 *Potential Impact:* Direct disturbance to nesting hen harrier:

3.2.3.5 *The underground cable route:*

3.2.3.5.1 The location of the proposed cable is removed from traditional hen harrier nest sites and whilst displacement can occur as a result of disturbance during the construction phase of wind energy developments at

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distances up to 500m, it is considered that the relatively minor works associated with the cable installation are unlikely to extend to this distance and thus impacts on nesting hen harrier are not foreseen.

*3.2.3.6 New road construction:*

3.2.3.6.1 The construction works associated with the development of the new road may potentially lead to temporary disturbance of hen harrier as a result of increased human activity and noise etc. However, considering the relatively minor scale and temporary nature of the works proposed, in addition to the location of same in excess of 500m from the nearest known nest site, it is submitted that the proposed construction activities will be unlikely to cause adverse impacts on nesting hen harrier, although if construction works are planned during the breeding season, it is recommended that a survey be undertaken to confirm the presence or otherwise of nesting hen harrier within 0.5km of the proposed works with appropriate mitigation to be put in place (e.g. the timing of works) in order to ensure there is no potential for adverse impacts.

*3.2.4 Lower River Shannon Special Area of Conservation:*

- *3.2.4.1 Potential Impact:* Suspended solids release during excavations (construction phase):

3.2.4.2 During the excavation, storage, and re-use of materials arising from the installation of the underground cable and the construction of the road, it is possible that suspended solids could be entrained by sustained rainfall and surface water runoff. If large quantities of this material were to enter watercourses in the area it could potentially affect the riverine habitat and associated protected species within the SAC. Sedimentation is known to cause deterioration of the spawning grounds of salmonids and lamprey species which depend on gravel substrates in the upper parts of the catchment as breeding habitat. However, various measures are proposed to prevent the aforementioned impacts e.g. works will mostly be confined to road surfaces and relatively small quantities of material will be excavated for short periods before being re-instated or removed from site

3.2.4.3 The cable route crosses drainage ditches that feed into the SAC downstream, however, the potential risk of significant impacts at these crossings is considered to be minor as the ecological interest of these features is low and no in-stream works are foreseen. The implementation

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of appropriate mitigation measures, such as the use of silt fencing in proximity to any watercourses and the use of check dams along roadside drains, during the construction phase will serve to prevent sediment from entering surrounding watercourses.

- *3.2.4.4 Potential Impact:* Risk of pollution from hydrocarbons, cementitious materials, and other harmful substances (construction phase):

3.2.4.5 The accidental spillage and release of hydrocarbons from plant / equipment during the construction phase could have a significant negative impact on downstream water quality (and protected species) within the cSAC. Any such pollution would be directly toxic to many species of the aquatic environment and could cause disturbance to the ecosystem. Therefore, appropriate measures will be taken to mitigate against the risk posed by the spillage of hydrocarbons and other harmful substances.

*3.2.4.6 In-combination / Cumulative Impacts:*

3.2.4.6.1 With regard to the potential for in-combination / cumulative impacts with other plans or projects, consideration must be given to the construction and operation of the Cloghboola & Dromadda Beg Wind Farms (including those proposed works presently on appeal under ABP Ref. No. PL08.245983 which involve the construction of a new access road and the completion of further road widening works in order to link the consented Dromadda Beg Wind Farm with the neighbouring Cloghboola Wind Farm in addition to the laying of a 1.4km long cable along the road verges from the Dromadda Beg Wind Farm Substation to the Cloghboola Wind Farm substation to enable connection to the national grid). In this respect, it is my opinion that whilst no significant cumulative impacts are likely to arise during the operational phase of the aforementioned developments, it will be necessary to consider the likelihood of potential cumulative impacts during the construction phase of the identified projects due to the displacement of protected species as a direct result of habitat loss, the disturbance of nesting hen harrier, and the potential downstream impacts on water quality caused by any incidences of sedimentation and pollution or other contamination.

3.2.4.6.2 In relation to the potential for cumulative impacts associated with the construction of the Dromadda More Wind Farm, which is located c. 4km to the south of Dromadda Beg, as referenced in Section 4.3 of the NIS, it has been submitted that the inclusion of conditions requiring the completion of Hen harrier monitoring surveys in the grants of permission issued in respect of PA Ref. Nos. 10/571 & 12/623, in addition to the implementation of various environmental



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engineering mitigation measures, will serve to avoid any significant in-combination / cumulative impacts with the subject proposal. Whilst I would accept the applicant's submission as regards the aforementioned wind energy development, I am inclined to suggest that the potential for cumulative impacts should be focussed on the construction of the Cloghaneeskirt & Dromadda Beg Wind Farms and the associated infrastructural works considering the proximity and inter-relationship of same to the subject development. Accordingly, having regard to the relatively minor scale and extent of the subject works, and the mitigation measures proposed to be undertaken during the construction of the Cloghaneeskirt & Dromadda Beg Wind Farms etc., it is my opinion that no additional significant in-combination or cumulative impacts will arise.

### *3.2.5 Potential Impacts – Conclusions:*

3.2.5.1 Therefore, having considered the foregoing, and following a review of the available information, I would reiterate that I am generally satisfied that the submitted NIS has adequately identified the key characteristics of the potential impacts arising as a result of the proposed development which would be likely to undermine the stated conservation objectives of the identified designated sites. These include the possibility that the proposed development could give rise to a loss of foraging habitat and the displacement of hen harrier in addition to the direct disturbance of breeding hen harrier during construction works within the SPA, and also the potential for contaminated ground and surface waters to impact on the integrity of the SAC and its qualifying interests.

### *3.2.6 Mitigation:*

3.2.6.1 Section 4.4 of the NIS proceeds to recommend a series of measures which will mitigate against any potential impacts on the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area and the Lower River Shannon Special Area of Conservation as follows:

#### *Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area:*

- It is proposed to provide an area of suitable mitigation habitat (with a minimum extent of 0.1 hectares) to off-set the potential effects of direct habitat loss on foraging hen harriers which will be managed throughout the lifetime of the project. This area will be located within the SPA and will comprise habitat that is not currently suitable for hen harrier (such as semi-mature forestry or improved pasture). This area of mitigation habitat will be agreed with the National Parks and Wildlife Service prior to the commencement of construction.

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(*N.B.* Whilst I would acknowledge the foregoing, I would advise the Board that details of an area of mitigation habitat and the proposed management of same were furnished to the Planning Authority as part of the NIS for the Dromadda Beg Wind Farm (PA Ref. No. 13/544), where it was calculated that 240 hectare years were required and 250 hectare years were provided. In this respect I would suggest that the aforementioned area of mitigation habitat is sufficient to offset the potential effects of the proposed wind farm and the additional minor habitat loss associated with both the subject proposal (estimated to be 0.1 hectares) and the further works proposed under ABP Ref. No. PL08.245983).

- Habitat disturbance within the SPA will be minimised by ensuring no unnecessary damage to habitat adjacent to the footprint of the proposed development. All construction related activity should be confined to the footprint of the proposed development.
- Habitat reinstatement in disturbed areas adjacent to the proposed access track should allow for natural regeneration (or planting if deemed necessary) of native shrub species thereby establishing foraging areas for hen harriers by providing cover on the site for prey species.
- Bog mats or other such appropriate measures and low ground bearing pressure machinery will be used in peatland areas. Disturbance of soils should be minimised, the vegetation should be lifted prior to construction and surface scragh replaced following construction.
- No stock-piling of excavated materials will be permitted on the bog surface.
- During construction the guidelines on best practice for wind energy development in peatlands issued by the Department of the Environment, Heritage and Local Government will be followed.
- As a precautionary measure, to avoid potential for disturbance impacts caused by construction on breeding hen harrier, all construction works should be limited to the period outside of the breeding season (March to August).
- In the event that construction works are to be undertaken during the bird breeding season then a pre-construction survey of breeding hen harrier in the surroundings should be undertaken. Should a nest site be identified as occurring within 0.5km of the proposed development then scheduling of works will ensure that no works will take place within 0.5km of the nest site during the sensitive nesting period.

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- Works will be carried out in accordance with Best Industry Practice and will be supervised by an Ecological Clerk of Works.

*Lower River Shannon Special Area of Conservation:*

- Any excess excavated material will be immediately removed from the area of the proposed works and disposed of at an appropriately licensed waste facility.
- Stockpiling of materials during construction will only occur in suitably designated areas away from watercourses with adequate measures taken to prevent any surface water runoff. Silt traps and silt curtains will be employed to safeguard the protection of watercourses in the vicinity of the proposed works.
- Materials will only be stockpiled for very short periods before being used again as backfill. Should material be stockpiled for extended periods, it will be appropriately covered to ensure that it will not become entrained by rainfall.
- Concrete washing of machines will take place off-site at an appropriate dedicated wash facility that will pose no threat to surface waters.
- Natural routes of watercourses will be maintained with no diversion of existing watercourses occurring.
- Re-fuelling of machinery will only be carried out in designated areas removed from any natural watercourses. All fuels used on site will be stored in bunded units. Plant and vehicles will be inspected regularly for leaks. Drip trays will be fitted to all plant / machinery.
- No batching of wet-cement products will occur on site. Ready-mixed supply of wet concrete products and, where possible, emplacement of pre-cast elements, will take place. No discharge of cement contaminated waters directly to any artificial drain or watercourse.
- Use of weather forecasting to plan dry days for concrete pouring.
- Works will be carried out in accordance with Best Industry Practice and will be supervised by an Ecological Clerk of Works.

3.2.6.2 Having reviewed the foregoing, I would accept that the implementation of those mitigation measures which pertain to construction management practices will serve to avoid unnecessary damage to habitat adjacent to the footprint of the proposed development, the disturbance of breeding hen harrier, and any impacts on downstream water quality, thereby ensuring that no significant adverse effects on the integrity of the identified sites arise as a result of the construction of the proposed development. With regard to the acknowledged loss of an area of potentially suitable foraging habitat for the hen harrier within the SPA estimated

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to be approximately 0.1 hectares, I would again advise the Board of the inter-relationship of the proposed works with the development of the Dromadda Beg Wind Farm. In this respect it should be noted that in order to mitigate the effects of habitat loss associated with the development of the Dromadda Beg Wind Farm, the NIS considered as part of PA Ref. No. 13/544 included provision for an area of suitable mitigation habitat which would be managed for the benefit of hen harriers throughout the lifetime of the project. More notably, it was calculated that 240 hectare years were required and 250 hectare years would be provided. Accordingly, given the limited extent of additional habitat loss associated with the subject proposal, I am inclined to suggest that the approved area of mitigation habitat to be provided as part of the development of the Dromadda Beg Wind Farm will be sufficient to offset the additional habitat loss.

*3.2.6.2 Stage 2: 'Appropriate Assessment': Conclusion:*

3.2.6.2.1 Therefore, I would reiterate the conclusions of my earlier assessment of the subject appeal that it is reasonable to conclude, on the basis of the information available, including the conclusions of the appropriate assessment previously undertaken with regard to ABP Ref. No. PL08.243573, that the proposed development, when taken individually and in combination with other plans or projects, will not adversely affect the integrity of the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area or the Lower River Shannon Special Area of Conservation (or any other Natura 2000 site) in view of the respective sites' conservation objectives.

Signed: \_\_\_\_\_

Robert Speer  
Inspectorate

Date: \_\_\_\_\_