



An
Bord
Pleanála

Inspector's Report ABP-304007-19

Development

**Proposed alteration to Shannon LNG regasification terminal to provide for a reduced footprint, less onshore facilities and equipment and the omission of four onshore storage tanks and associated pond for hydrotesting.

Location

Ballylongford, Co. Kerry

Planning Authority

Kerry County Council

Prospective Applicant

Shannon LNG Limited T/A Shannon LNG

Type of Application

SID Pre-application – whether project is or is not strategic infrastructure development.

Dates of Pre-Application Meetings

21 May 2019, 22 January 2020, 22 May 2020 & 25 March 2021

Date of Site Inspection

9 April 2021

Inspector

Una Crosse

**see Sections 1 and 9.1 of report in respect of description of development.

1.0 Introduction

- 1.1. This report relates to pre-application discussions held with Shannon LNG Limited to determine whether their proposed development of an LNG terminal and CCGT power plant constitutes strategic infrastructure, as defined by the Planning and Development Act, 2000 (as amended).
- 1.2. This report describes the location and nature of the proposed development, the applicant's submission, the consultations held and the legal provisions which are relevant to the proposed development. It recommends that the proposed development constitutes strategic infrastructure and it sets out reasons and considerations to support this conclusion.
- 1.3. The proposed development has been altered during the course of the pre-application consultation process. This is detailed in Section 3 as it relates to the proposed development and Section 6 as it relates to the applicant's submission.
- 1.4. I would also note that the description given to the proposal upon receipt of the pre-application consultation request refers, in error, to the proposed development being an alteration. This matter has been addressed in Section 9.1 of my assessment below.
- 1.5. The prospective applicant noted during the course of the consultations that Foreshore Licences and Leases had been obtained.
- 1.6. The prospective applicant sought closure of the pre-application process by way of correspondence dated 30 March 2021.

2.0 Site Location and Description

The proposal is located on a site, which has a stated area of c.110 hectares (as per original submission). It lies between the coast road (L1010) from Tarbert to Ballylongford, to the south, and the estuary to the north and is surrounded to the east and west by agricultural lands. Access to the site is from the L1010 Coast Road to the southwest of the main development site. The site comprises a number of fields currently in grassland bounded by hedgerows with the lands rising from c.3 mOD at the shoreline, to over 25 mOD at its south western extremity. There is a farmhouse to the south of the terminal site accessed via a laneway from the L1010. The wider

area includes farmland with a number of houses and some forestry to the west. There are a number of small stone structures/outbuildings on and within the immediate vicinity of the site. It is outlined that the estuary provides a safe and deep-water access at this location (14m+ in depth and 2km wide) within a sheltered location (waves <1.5m). Other industrial activities in the wider area include the currently coal-fired power station at Moneypoint on the opposite side of the estuary at a distance of c.3km; the oil-fired power station at Tarbert c.5km to the east; and the Russal Aughinish facility c.26km to the west at Foynes and Foynes Port itself. It is stated that the lands are owned by Shannon Commercial Enterprises DAC with Shannon LNG having entered into an agreement to purchase the lands.

3.0 The Proposed Development

The proposal now before the Board for determination, which was outlined in detail at the fourth and final pre-application consultation meeting, comprises an LNG regasification terminal and CCGT power plant located on the shore of the Estuary as follows:

3.1. LNG Terminal

Onshore

- Onshore Above Ground Installation (AGI) which includes an odourisation facility, gas heater building, gas metering and pressure control equipment.
- Onshore adjustment facility, control room, guard house, workshop and maintenance buildings, instrument air generator and fire water system.
- Final send-out capacity of up to 22.6 MMscm/d.

(The AGI facilitates the connection of the LNG Terminal to the consented Shannon pipeline).

Offshore (connecting to onshore)

- Jetty and access trestle capable of receiving and providing secure berthing for LNG ships with piping infrastructure to safely deliver LNG from the LNG ship to the onshore terminal infrastructure.

- The jetty comprises an unloading platform with cryogenic arms, six mooring dolphins and four breasting dolphins, level set at +9m OD with overall length between outer mooring dolphins 400m with a trestle length of c.345m.
- Mooring location on the jetty proposed for up to four tugboats.
- A Floating Storage Regasification Unit (FSRU) berthed at the LNG jetty with a storage capacity of c.180,000m³.
- LNG vapourisation process equipment to regasify the LNG to natural gas is located on board the FSRU.
- Heat for the LNG regasification to be taken from seawater via a heat exchanger supplemented by heat from gas fired heaters when water temperature inadequate.
- Loading of LNG onto the FSU will be via a ship-to-ship transfer from another LNG Ship berthed alongside.

Other Elements

- Power supply (likely c.20kV) required to meet power demand of proposal which will likely connect to the existing 220kV substation at Kilpaddoge (subject to separate consent).
- It is stated that the proposed development would operate outside of the main navigational channel.

3.2. **Power Plant (CCGT)**

- 600 MW flexible multi-shaft power plant with three blocks of CCGT (combined cycle gas turbine) with each block up to 200MW.
- Each block contains two gas turbine generators (six in total), two heat recovery steam generators (six in total) and a steam turbine generator (three in total).
- Cooling proposed by means of air-cooled steam condensers.
- Battery storage facility of 120MW for 1 hour (120MWh).

The following is of note:

- Power plant will generate power for its own needs and for LNG terminal and for sale to the market via proposed 220Kv connection. Power plant was successful in recent ECP 2.1 process.

- CRU confirmed that diesel not required as a secondary fuel for the power plant although small amounts may be on site for emergency generators.
- 220kV offer not yet received but expected that the 220kV cable will run for c. 5km to the east along the L1010 to the Kilpaddock 220kV substation.
- 220kV connection would be subject to separate consent.

Power plants similar to the proposed are located Tynagh Energy in Galway and BGE at Whitegate in Cork.

3.3. Other Matters of Note

It should be noted that as will be evident from the presentations provided by the applicant and the record of the meetings held that elements of the proposed development evolved during the course of the application.

The following matters are also noted:

- Proposal would likely be classified as an Upper Tier COMAH establishment with a detailed quantitative risk Assessment (QRA) to be carried out of the terminal for submission to the Health and Safety Authority (HSA).
- A Marine Safety Assessment is proposed to be undertaken (this was also undertaken of the shipping activities associated with the terminal permitted in 2008).

Already permitted infrastructure related to the proposal was outlined as follows:

- CHP Plant granted by the Board (Ref. 08.PA0028) adjacent to the LNG Terminal.
- Gas Pipeline connecting the terminal to the gas network permitted by the Board (Ref. 08.GA0003).

Previously Permitted LNG Terminal

The prospective applicant was requested to provide a comparison between the previously permitted (now expired) and proposed development during the pre-application process. In summary the proposed development differs most significantly in relation to the reduced footprint and less onshore facilities and equipment in the current proposed. Specifically, there is no requirement for the four 200,000m³ onshore storage tanks and associated pond for hydrotesting previously permitted in the now expired permission.

4.0 Policy Context

4.1. National Planning Framework

- 4.1.1. National Strategic Outcome (NSO) 8 addresses the ‘Transition to a Low Carbon and Climate Resilient Society’ stating that: *“Ireland benefits from interconnection with the UK gas pipeline network and while there are two gas pipelines with two separate entry points into the island of Ireland, both pipelines are connected through a single facility in Moffat, Scotland. In addition, our gas storage capacity is limited, which poses a security of supply risk and constrains smoothing of seasonal fluctuation in gas prices”*.
- 4.1.2. Chapter 7 of the Framework is entitled “Realising our Island and Marine Potential”. Within this Chapter the Shannon Estuary and in particular the Strategic Integrated Framework Plan is included as a case Study. This Plan is specifically addressed in Section 4.3.1 below.

4.2. National Development Plan 2018-2027

- 4.2.1. The National Development Plan 2018 - 2027 (NDP) sets out the investment priorities that will underpin the implementation of the National Planning Framework, through a total investment of approximately €116 billion. In relation to commercial and private sector investments within NSO8 reference is made to the development of gas infrastructure projects to support regional and rural development and the low-carbon transition. It is stated that *“a high proportion of Ireland’s electricity needs have historically been met through gas-fired power generation. However, the growth in renewable power generation as part of the overall decarbonisation agenda along with increased interconnection has meant a reduction in the volume of gas-fired power generation and, in turn, a lower volume of gas being transported through Ireland’s gas infrastructure. A significant proportion of this renewable power generation is being delivered from wind energy but given the intermittent nature of this technology, a proportion of Ireland’s electricity needs will likely continue to be generated from gas over the medium to longer term. It will therefore remain necessary for a certain level of gas fired generation to continue to be available to*

ensure continuity of supply and the integrity of the electricity grid during the transition towards a low-carbon energy system”.

- 4.2.2. It is also stated that *“from a gas-supply perspective, the delivery of indigenous gas from the Corrib gas field has enhanced the security of supply but Ireland will still need to import gas via the UK on a long-term basis as Corrib production is projected to decline over the medium term. An important project in this regard that is now nearing completion is the c. €100 million gas pipeline twinning project (South-West Scotland On-shore System project), which involves the construction of 50 km of gas transmission pipeline from Cluden to Brighthouse Bay, Scotland”.*

4.3. National Energy & Climate Action Plan 2021-2030

- 4.3.1. This 2019 National Energy and Climate Plan (NECP) was prepared in accordance with Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action to incorporate all planned policies and measures that were identified up to the end of 2019 and which collectively deliver a 30% reduction by 2030 in non-ETS greenhouse gas emissions (from 2005 levels). It is stated that Ireland is submitting the 2021-2030 NECP to facilitate the ongoing analysis at EU level and it will be revised to bring it in line with the 7% trajectory and to include policies and measures currently being developed to achieve the 7% trajectory. It is outlined that Ireland is currently developing those policies and measures and intends to integrate the revision of the NECP into the process which will be required for increasing the overall EU contribution under the Paris Agreement.
- 4.3.2. In terms of energy security, it states that *“a review of the security of energy supply of Ireland’s natural gas and electricity systems is being carried out. The focus of the review is the period to 2030 in the context of ensuring a sustainable pathway to 2050. Given the increasing dependence of electricity production on natural gas and the increasing dependence on imports from the UK, it is important that close co-operation on security of supply continues with EU Member States and the UK”.*
- 4.3.3. Section 2.3 addresses ‘Dimension Energy Security’ and at subsection (iii) which, where applicable refers to national objectives with regard to reducing energy import dependency from third countries it states that:

“Given Ireland’s high and increasing reliance on gas for electricity, our low import route diversity, Ireland’s relatively high dependence on imported gas, which is likely to increase as the Corrib gas field progressively depletes, and the potential increasing role of gas in the energy mix for heat, transport and power generation including as a back-up for intermittent power generation, our objectives are to:

- Ensure the resilience of the gas network to a long-duration supply disruption, in the context of EU and national climate objectives;*
- Actively participate in EU and regional initiatives to maintain and enhance security of supply including national, regional and EU co-operation on emergency planning and response for gas and electricity networks, including risk assessments, preventative plans and emergency plans;*
- Following the withdrawal of the United Kingdom from the EU, engage with our EU partners to put in place an EU/UK framework for continued necessary regional co-operation between Ireland and the UK on matters related to gas and electricity security of supply, including emergency preparedness and response and solidarity in an emergency situation”.*

4.3.4. Table 12 of this document refers to Shannon LNG (PCI number 5.3) as being on the fourth PCI list.

4.3.5. Section 4.5.2 addresses Energy Transmission Infrastructure and states that *“Ireland has no LNG terminal, although there are a number of commercial proposals, one of which was included in the EU’s fourth list of PCIs. Future applications by LNG or other infrastructure projects for EU Connecting Europe Facility (CEF) funding will be considered in context of national and EU climate policy objectives”.*

4.4. **Climate Action Plan 2019**

4.4.1. A case study included in the Plan (pg. 53) on the cost of renewable electricity notes that *“Renewable generation is intermittent and often unpredictable. This creates new challenges for utilities, market participants, and policy makers. Intermittency also creates the need for a range of technology solutions which may include large-scale interconnection, storage, and dispatchable capacity (e.g., natural gas plants that can generate electricity at times where there is no wind). There is no one-size-fits-all answer to supporting 70% renewables”.*

4.4.2. Section 7.2 of the Plan refers to targets in respect of meeting the required level of emissions reduction by 2020 and notes that “achieving 70% renewable electricity by 2030 will involve phasing out coal- and peat-fired electricity generation plants, increasing our renewable electricity, reinforcing our grid (including greater interconnection to allow electricity to flow between Ireland and other countries), and putting systems in place to manage intermittent sources of power, especially from wind”.

4.5. **Regional Spatial Economic Strategy for the Southern Region**

4.5.1. The RSES for the Southern Region came into effect in January 2020 and includes County Kerry. The RSES provides the implementation strategy for the NPF. Section 3.8 of the RSES addresses settlement networks one of which is defined as the North Kerry/ West Limerick/Shannon Estuary/Clare area. It is stated that *“the RSES recognises and supports the economic role and potential of settlements including Listowel, Abbeyfeale Newcastle West (Key Town), Kilrush as economic drivers in a potential North Kerry/West Limerick/Clare network connected with the Shannon Estuary (and Shannon Foynes Port). Their attributes extend to include the Shannon Integrated Framework Plan (SIFP) area and strategic locations identified under the SIFP as a Shannon Estuary Coastal Network. Reference to the SIFP network is also included as an example of our Region’s strategic marine and coastal assets in Chapter 4”*.

4.5.2. **Regional Policy Objective 79** relates to the Shannon Estuary and Other Harbour Plans as follows:

(a) The RSES recognises the national and international importance of the Shannon Estuary, its potential to attract multinational development and the significant work that has been undertaken to progress its promotion and development. It is an objective to support and promote the delivery of the Strategic Development Locations as set out in the SIFP for the Shannon Estuary subject to the implementation of mitigation measures outlined in the SEA and AA undertaken on SIFP and zoned in the Local Authority Development Plans.

(b) It is an objective to promote the SIFP initiative as a good practice model for the Southern Region and to seek the preparation of similar initiatives for Cork Harbour and Waterford Harbour between the relevant stakeholders.

(c) It is an objective to support the promotion, marketing and seeking of financial and expertise support for the Strategic Integrated Framework Plan (SIFP) for the Shannon Estuary and specific projects emerging there from.

(d) Such initiatives shall be subject to the relevant environmental assessment requirements including SEA, EIA SFRA and AA as appropriate.

4.5.3. The RSES includes the SIFP for the Shannon Estuary as a good practice example. It states that “it has identified an additional 1,200 hectares for marine related development (9 no. strategic development locations) by building on existing industry connectivity and synergy as well as the existing infrastructure to create a more sustainable and attractive network for further investment. Significant tracts of land have been zoned for marine related industry in Counties Clare, Limerick and Kerry because of the preparation of the SIFP and these sites present prime opportunities for employment generating development in the Region”.

4.5.4. It also states that “the zoned lands at Tarbert/Ballylongford in North Kerry with extant planning for strategic energy and marine related industry including the Shannon Gas LNG project are a further example of the regional and national potential of the location”.

4.5.5. **Regional Policy Objective 142** refers to ports and the objective “to strengthen investment to deliver actions under National Ports Policy and investment in sustainable infrastructure projects that:

(e) Support the sustainable development of the 9 no. strategic development locations adjoining sheltered deep-water in line with the recommendations of the SIFP for the Shannon Estuary and subject to the implementation of mitigation measures outlined in the SEA and AA undertaken on the SIFP.

and

(f) Development proposals will be subject to environmental assessment, implementation of mitigation measures outlined in applicable SEAs and AAs and feasibility studies to establish that any expansions can be achieved without adverse

effects on any European sites and within the carrying capacity of the receiving environment of the ports”.

- 4.5.6. Section 8.3 of the Strategy deals specifically with Gas Networks where the Tarbert-Ballylongford lands are addressed as an ‘Energy Hub Case Study’, and following a description of the previously permitted developments on and in the vicinity of the site which are expired/extant, it is stated that *“it is anticipated that the project would position the area as a major National Centre for CHP and facilities requiring access to deep water with substantial requirements for electricity and natural gas”.*
- 4.5.7. RPO 225 deals with the Gas Network stating that *“subject to appropriate environmental assessment and the planning process where required, it is an objective to: (e) “Strengthen the gas network sustainably to service settlements and employment areas in the Region, support progress in developing the infrastructures to enable strategic energy projects in the Region. An example is the Tarbert/Ballylongford landbank in Co Kerry which is a strategic development site under the Strategic Integrated Framework Plan for the Shannon Estuary and support for the extension of the Gas Network from Listowel into the Kerry Hub and Knowledge Tri-Angle settlements of Tralee, Killarney and Killorglin”.*

4.6. Kerry County Development Plan 2015-2021

- 4.6.1. Chapter 4 of the plan addresses Economic Development and Employment with Section 4.7 dealing specifically with the Tarbert/Ballylongford Land Bank. It is stated that *“this Plan zones 390 hectares of land, known as the Tarbert/ Ballylongford Land Bank, for marine-related industry, compatible or complimentary industries and enterprises which require deep water access. The land bank is adjacent to the Lower Shannon cSAC 002165 and the River Shannon and River Fergus SPA 04077 as well as several pNHA designations. Within the land bank planning permission has been secured for the construction of a Liquefied Natural Gas (LNG) regasification terminal. This site is 104 hectares in size. In addition planning permission has also been granted within the LNG site for a Combined Heat & Power plant. These two developments were extensively environmentally assessed and have the potential to sustainably create substantial employment both at the construction and operation phases and can act as a catalyst for future industrial development and employment arising from the availability of secure gas and electricity supply in this region. For the*

most part the Tarbert / Ballylongford landbank is located outside of known flood risk areas and therefore is appropriately zoned. Notwithstanding this, development proposals will be required to be supported with detailed site level flood risk assessments, as appropriate in order to ensure that the overall landbank resource is protected and developed in a sustainable manner A small portion of the overall landbank is deemed to be located within Flood Zone B for which a Justification Test was carried out and passed as per Table 3.2 of the DEHLG guidelines on Flood Risk Management. Accordingly, this area is deemed to be a zoned area pending a Site Specific Flood Risk Assessment at development consent stage”.

4.6.2. The Plan then refers to the Shannon Integrated Framework Plan noting that it is an objective of the Council to:

ES-22 – *“Support the implementation of the Shannon Integrated Framework Plan (SIFP) to facilitate the sustainable economic development of the Shannon Estuary”.*

ES-23 – *“Promote and facilitate the sustainable development of these lands for marine related industry, utilising the presence of deep water, existing infrastructure, natural resources, and waterside location to harness the potential of this strategic location. Alternative proposals for general industrial development, compatible or complimentary with marine related industry and / or those creating a synergism with existing or permitted uses and / or those contributing to the sustainable development of a strategic energy hub at this location will also be encouraged. Development will be subject to compliance with the objectives of this Plan, particularly as they relate to the protection of the environment and will also be subject to compliance with the Environmental Reports prepared in support of the SIFP, where appropriate”.*

ES-24 – *“Ensure that development proposals for the Tarbert / Ballylongford landbank are supported with detailed site level flood risk assessments. As part of this, the probability of flooding within the site together with the vulnerability of proposed land uses shall be taken into consideration and appropriate mitigation measures incorporated, where necessary, so as to adequately manage flood risk. In addition, only water compatible industrial type land uses, including flood control infrastructure and compatible industrial activities requiring a waterside location will be permitted on lands which have an annual exceedance probability of coastal flooding of 0.1% AEP (Extreme Flood Extent)”*

Section 12.3.2 of the Plan deals with Zoning designations two of which are as follows:

- 4.6.3. **Tarbert/Ballylongford Landbank** - Land known as the Tarbert/Ballylongford Land Bank comprises 390 hectares of land and is zoned for development as set out in S4.7 of this Plan (see above).
- 4.6.4. **Shannon Estuary** - The Strategic Integrated Framework Plan (SIFP) for the sustainable development of the Shannon Estuary identifies land for a variety of land and marine based development. Developers should have regard to the provisions of this Plan in formulating proposals for development in this area.
- 4.6.5. **Strategic Integrated Framework Plan for the Shannon Estuary 2013-2020**
- 4.6.6. This Plan which, is referenced in both the NPF and RSES as outlined above, is referenced in Sections 4.7 and 12.3.1 of Kerry County Development Plan as detailed above. The Plan describes itself as *“an inter-jurisdictional land and marine based framework to guide the future development and management of the Shannon Estuary”*. By way of introduction it is stated that: *“The Estuary is the largest in Ireland, with a water body of some 31,500 ha, covering a distance of approximately 100km from Limerick City to Loop Head. It has a long established history of facilitating major industries, including Shannon Foynes Port at Foynes and Limerick Docks. The Port has grown to become Ireland second largest port operation, handling the largest vessels entering Irish waters, up to 200,000dwt. Shannon International Airport, ESB Moneypoint, Tarbert Power Station, NORA Fuel Storage, Aughinish Alumina have also grown and become major industrial and employment hubs within the Estuary, operating efficiently and sensitively within the estuarine environment”*.
- 4.6.7. In relation to ‘economy, Section 2.1.3 of the Plan states that *“the Estuary is also likely to benefit from other significant foreign investment of around €500 million through implementation of planning approval for the first LNG terminal in Ireland at the Tarbert- Ballylongford Landbank near Tarbert. The scheme will contain four insulated storage tanks of 200,000 cubic metres capacity and a re-gasification facility linked to the existing gas transmission system. Such significant investments, particularly in energy infrastructure are likely to be a catalyst for other major foreign investment in the region”*.

4.6.8. The subject site is located within the landbank designated as 'Strategic Development Location H' - Tarbert-Ballylongford Land Bank, Ballylongford within the Plan.

4.6.9. It is stated that "*the lands at this location, lie adjacent to a relatively well sheltered significant deepwater resource on the Shannon Estuary close to the N69. The lands comprise a considerable development hinterland adjacent to the deepwater resource close to a ready, reliable natural gas and electric power supply*".

4.6.10. It further states that "*this SDL is identified and prioritised for marine related industry. The location offers significant potential for future development, with the LNG acting as a catalyst for additional industrial development at this location in the future. With the extension of the natural gas network and the existing electricity distribution infrastructure in place the SDL lends itself to development in a sustainable manner as a power generation centre for the region*".

4.6.11. The strategic development location of Tarbert-Ballylongford has the following development objectives of specific note:

SIFP MRI 1.2.13 – "*To promote and facilitate the sustainable development of these lands for marine related industry, utilising the presence of deep water, existing infrastructure, natural resources, and waterside location to harness the potential of this Strategic Location. Alternative proposals for general industrial development, compatible or complementary with marine related industry, with the level of flood risk, and those creating a synergism with existing uses, and contributing to the development of a strategic energy hub at this location will also be encouraged. Development will be subject to compliance with the criteria set out in Objective SIFP MRI 1.2*".

4.6.12. In relation to the 'Shipping and Navigation Strategy in the Plan (Section 5.5.3) it is noted that "the capacity to accommodate bigger ships (Photo 40) in the Estuary is intricately related to growing economic activity. It will also improve the current marketing, attractiveness and investment potential within the Estuary and increase future growth potential in new maritime industries, including oil and gas exploration, offshore renewable energy, the Cruise Industry and Liquefied Natural Gas (LNG) within the Estuary. The Shannon Estuary is considered an ideal location for these activities due to its naturally occurring deepwater and its relatively uncongested waters from a maritime navigational perspective".

4.7. European Sites

The site is within and adjoins the Shannon Estuary which is part of the Lower River Shannon SAC – site code 002165 and River Shannon and River Fergus Estuaries SPA – site code 004077. The sites are outlined as follows:

4.7.1. Lower River Shannon SAC – site code 002165

The qualifying interests for this site are as follows:

Priority habitats denoted by *

- Freshwater Pearl Mussel *Margaritifera margaritifera* - 1029
- Sea Lamprey *Petromyzon marinus* - 1095
- Brook Lamprey *Lampetra planeri* - 1096
- River Lamprey *Lampetra fluviatilis* - 1099
- Atlantic Salmon *Salmo salar* (only in fresh water) - 1106
- Sandbanks which are slightly covered by sea water all the time - 1110
- Estuaries - 1130
- Mudflats and sandflats not covered by seawater at low tide - 1140
- *Coastal lagoons - 1150
- Large shallow inlets and bays - 1160
- Reefs - 1170
- Perennial vegetation of stony banks - 1220
- Vegetated sea cliffs of the Atlantic and Baltic coasts - 1230
- *Salicornia* and other annuals colonizing mud and sand - 1310
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) - 1330
- Bottlenose Dolphin *Tursiops truncatus* - 1349
- Otter *Lutra lutra* - 1355
- Mediterranean salt meadows (*Juncetalia maritimi*) - 1410
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation - 3260

- *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) - 6410
- *Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) -91E0 -

Conservation Objectives for the site are dated August 2012.

4.7.2. River Shannon and River Fergus Estuaries SPA – site code 004077

The special conservation interests for this site are as follows:

- Cormorant (*Phalacrocorax carbo*) [A017]
- Whooper Swan (*Cygnus cygnus*) [A038]
- Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]
- Shelduck (*Tadorna tadorna*) [A048]
- Wigeon (*Anas penelope*) [A050]
- Teal (*Anas crecca*) [A052]
- Pintail (*Anas acuta*) [A054]
- Shoveler (*Anas clypeata*) [A056]
- Scaup (*Aythya marila*) [A062]
- Ringed Plover (*Charadrius hiaticula*) [A137]
- Golden Plover (*Pluvialis apricaria*) [A140]
- Grey Plover (*Pluvialis squatarola*) [A141]
- Lapwing (*Vanellus vanellus*) [A142]
- Knot (*Calidris canutus*) [A143]
- Dunlin (*Calidris alpina*) [A149]
- Black-tailed Godwit (*Limosa limosa*) [A156]
- Bar-tailed Godwit (*Limosa lapponica*) [A157]
- Curlew (*Numenius arquata*) [A160]
- Redshank (*Tringa totanus*) [A162]
- Greenshank (*Tringa nebularia*) [A164]
- Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
- Wetland and Waterbirds [A999]

Conservation Objectives for the site are dated September 2012.

5.0 Planning History

5.1. Subject Site

5.1.1. ABP Ref. PL08.PA0002

Permission was granted by the Board on 31 March 2008 for the development of a proposed Liquefied Natural Gas (LNG) regasification terminal located on the Southern shore of the Shannon Estuary in the townlands of Ralappane and Kilcolgan Lower, County Kerry.

Condition 2 of the permission stated:

This permission shall, in accordance with the application, be for a period of ten years from the date of this order.

Reason: *In order to allow a reasonable period for the completion of this extensive development.*

As per the legal proceedings referenced in section 5.1.3 below, this permission has expired.

5.1.2. ABP Ref. PL08.PM0002

An amendment was sought under section 146B of the Planning and Development Act, 2000 (as amended), to make modifications/alterations to approved development (outlined above) comprising the option to construct one storage tank in phase 1, rather than 2 storage tanks, slight alteration to jetty head, reduction in width of trestle decking, alterations to pipeline supports close to sea-water pump-house, running of pipes under rather than over a section of the outer perimeter road and other amendments including the relocation of minor elements and reduction in width of some service roads from 9.0m to 6.0m. The Board determined on 4 March 2013 that the proposed alteration would not constitute the making of a material alteration of the terms of the permission and amended the terms of Condition 3.

5.1.3. ABP Ref. PL08.PM0014

An amendment was sought under Section 146B of the Planning and Development Act 2000, as amended to alter the terms of the permission. The alteration sought related to Condition No. 2 of the permission in respect of the duration of permission seeking an extension of duration of the permission from 10 to 15 years. The Board determined on 13 July 2018 that the proposed alteration would not constitute the making of a material alteration of the terms of the permission. The validity of the amendment granted by the Board under PL08.PM0014 was challenged in September 2018 by way of *Friends of the Irish Environment CLG v An Bord Pleanala*, High Court 2018 No. 734JR. The matter was referred to the Court of Justice of the European Union ([2019] IHEC 8 and Case C-254/19) and following same, an order was made on 9 November 2020 quashing the amendment.

5.1.4. **ABP Ref. 08.PA0028**

Permission was granted on 9th July 2013 to construct a 500MW 'CHP' combined heat & power plant within the overall lands to the northwest of the subject site on Knockinglas Point. Condition no. 2 states that the permission is for a period of ten years.

5.2. **Other Related Developments**

5.2.1. **ABP Ref. 08.GA0003 & 08.DA0003**

Permission for the construction of a 26km underground pipeline to link the proposed LNG terminal at Ralappane, with the national gas transmission grid near Foynes, Co. Limerick was granted and compulsory acquisition of the necessary lands was consented by the Board on 17 February 2009.

6.0 **The Applicant's Submission**

- 6.1. In their correspondence to the Board seeking a determination as to whether the proposed development is strategic infrastructure development (received 20 March 2019) the applicant provided details of the proposed development, planning history, comparison to previously permitted LNG facility, stakeholder consultations and planning policy context all of which is addressed elsewhere in this report.

6.2. In relation to their position in respect of the need for the proposed development and in particular its compliance with the requirements to be determined as strategic infrastructure development the following is summarised:

- Proposal complies with national, regional and EU energy policies and plans.
- National Strategic Outline 8 of NPF, Transition to a Low-Carbon and Climate Resilient Society, reference is made under Commercial and Private Sector Investments to the need for the development of gas infrastructure projects to support regional and rural development and the low carbon transition.
- Objective 217 of Southern RSES references proposal stating it is an objective to support progress in developing the infrastructures to enable permitted gas energy supply facilities such as the Tarbert/Ballylongford landbank in Co. Kerry to enhance the natural gas grid.
- Further reference in RSES to positioning the area as a major National centre for CHP and facilities requiring access to deep water with substantial requirements for electricity and natural gas.
- Proposal rooted in need to enhance energy security and to provide a reliable supply of gas to meet demand as part of a sustainable energy transition to a low carbon future. Ireland's Transition to a Low Carbon Future 2015-2030 under Section 3.4 states that in the short- to medium term the mix of non-renewables will shift from more carbon-intensive fuels like peat and coal to lower carbon fuels like gas. Reference to Section 6.2 in relation to projects which could enhance energy security/security of supply and reference (188) to successive IEA reviews of Ireland which note no strategic gas storage and limited operational gas storage capacity making Ireland vulnerable in the event of a prolonged gas supply disruption in Europe.
- Outlined that forehorse licences and leases have been obtained for the proposed development.
- Reference is made to the proposal complying with the classes within the Seventh Schedule which include within energy Infrastructure for – *'an onshore terminal, building or installation whether above or below ground associated with an LNG facility and for the purpose of this provision, 'LNG facility' means a terminal which*

is used for the liquefaction of natural gas or the importation, offloading and re-gasification of liquefied natural gas, including ancillary services’.

- In terms of the eligibility criteria in Section 37A(2) stated that the previously permitted LNG regasification terminal was determined to be strategic infrastructure development (PC.0002).
- Proposal is of a class in the Seventh Schedule and is strategic infrastructure given the need for the project as outlined, the nature and scale of the proposal and the fact that the previously permitted LNG project was determined to be strategic infrastructure.

Any further arguments to support the applicant’s submission put forward in the consultation meetings undertaken are summarised in the next section.

7.0 Consultations

7.1. Consultations with An Bord Pleanala

- 7.1.1. Four pre-application meetings were held with the prospective applicant (21 May 2019, 22 January 2020, 22 May 2020 & 25 March 2021). A record of all meetings held are attached to the file. The presentations made to the Board’s representatives at these meetings are also attached to the file (note there was no presentation at the first meeting).
- 7.1.2. The principal matters arising at these meetings related to:
- Nature of proposed development as it evolved during the meetings with proposal at outset including a data centre element which was subsequently excluded with the development now proposed including a CCGT power plant;
 - Masterplan proposed for overall landholding.
 - Provision of a comparison between the current proposal and previously permitted development. Noted that while proposed jetty infrastructure similar to previously permitted, configuration on site different given onshore storage tanks no longer required, significantly less earthworks required in proposed scenario with no pond and embankment or damming of river required.

- Need for proposed development related to enhancement of energy security given depletion of Corrib gas field and single supply point from UK; addressing electricity capacity shortfalls from generation capacity and urgent need for new gas fired power plants; and supporting the 70% (generation of electricity by renewables) target for 2030.
- Key policies and statements in National Energy & Climate Plan (2021-2030), Climate Action Plan (2019), EirGrid's Generation Capacity Statement (2020) and Gas Networks Ireland (GNI) Vision 2050 (2019) support proposal complying with test in Section 37A(2)(a) – strategic economic or social importance to the State or Region.
- Key policies and statements in NPF, National Development Plan 2018-2027 and RSES for Southern Region 2020 support proposal falling under Section 37A(2)(b) – contribute to fulfilment of any of the objectives in the NPF or in any RSES.
- Proposed development subject to navigational protocols of the Shannon Foynes Port Company in Co. Limerick and shipping route passes lands within jurisdiction of County Clare therefore considered proposal falls within Section 37A(2)(c) - would have a significant effect on the area of more than one planning authority.
- In relation to statements in Programme for Government on fracked gas noted that most of the LNG in the world is not sourced from fracked gas with proposal not dependent on fracked gas with applicant confident it can source gas from non-fracked sources to meet energy demand and security of supply.
- Both power plant and terminal are 'future-proofed' by having ability to transition to hydrogen fuel once technology and public policy developed, subject to future consent.
- EIAR to address all elements of project including direct and indirect effects including significant effects on the environment arising from major accidents/disasters and cumulative impacts/in-combination effects from other proposed elements such as the grid connection.
- Public Consultation advised particularly with key stakeholders and prescribed bodies;

- Requirement for robust NIS and early engagement/consultations with NPWS was advised with details of consultations undertaken with the NPWS and other relevant stakeholders, including the Irish Whale & Dolphin Group were provided during the course of the meetings (details of consultation with the NPWS separately in section 7.2 below, with consultations ongoing with the IWDG).
- Details of survey work including bottlenose dolphin monitoring and underwater noise modelling provided.
- Change in regulatory framework since previous application including EIA and Habitats Directives, legal judgements and Climate Action Plan.
- Sensitive location of site outlined, loss of habitat detailed and requirement to justify same required. In-depth/robust scientific analysis required in NIS in relation to habitats conservation objectives, targets and attributes which may be most greatly affected.
- Process by which proposal would be assessed for the purposes of the habitats Directive was discussed vis-à-vis, Article 6(3)/Article 6(4) of the Habitats Directive.
- List of all consents required was requested and provided with detailed list of all permits, licences/authorisations set out and the awarding body for same.
- Rationale for FSU outlined with Board's representatives outlined that the direct and indirect effects from the FSU require thorough consideration.
- Requirement for robust consultations with list of all consultations undertaken provided.
- Consideration of a community gain proposal were advised;
- Consultations with the HSA regarding the proposed Quantitative Risk Assessment (QRA) required which will consider the FSRU.
- Meeting with the Shannon Foynes Port Company wherein it was agreed that a new marine navigation risk assessment would be completed.
- Prospective applicant clarified that it is not a PCI project.
- SID application process was outlined;

7.2. Consultations with NPWS

- 7.2.1. The Board's representatives sought details from the prospective applicant at the second pre-application meeting (22 January 2020) on the extent of consultations undertaken with the NPWS, a prescribed body, and other relevant stakeholders such as the Irish Whale and Dolphin Group. At the third meeting (22 May 2020) the prospective applicant stated that they had consultation with the NPWS on 21 February 2020 and outlined the discussion which had taken place which is detailed in the presentation and record of the meeting (22 May 2020). Following same, the Board's representatives met with representatives of the NPWS on 23 June 2020 to discuss the matter. The NPWS representatives outlined that no formal request for consultations had been received. The prospective applicant was forwarded a copy of the record of this meeting which noted this fact. On the 19th January 2021, formal consultations were undertaken by the prospective applicant with the NPWS and the record of that meeting is on the file.

8.0 Legislative Provisions

8.1. Strategic Infrastructure Development

8.1.1. Section 37A

Section 37A(1) of the Planning and Development Act 2000, as amended states that:
"An application for permission for any development specified in the Seventh Schedule (inserted by the Planning and Development (Strategic Infrastructure) Act 2006) shall, if the following condition is satisfied, be made to the Board under section 37E and not to a planning authority.

(2) That condition is that, following consultations under section 37B, the Board serves on the prospective applicant a notice in writing under that section stating that, in the opinion of the Board, the proposed development would, if carried out, fall within one or more of the following paragraphs, namely—

(a) the development would be of strategic economic or social importance to the State or the region in which it would be situate,

(b) the development would contribute substantially to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate,

(c) the development would have a significant effect on the area of more than one planning authority”.

8.1.2. **Seventh Schedule**

The Seventh Schedule of the Planning and Development Act, 2000, as amended sets out the Infrastructure Developments for the purposes of Sections 37A and 37B. Energy Infrastructure is included within Class 1 of the Seventh Schedule and includes the following:

“An onshore terminal, building or installation, whether above or below ground, associated with an LNG facility and, for the purpose of this provision, ‘LNG facility’ means a terminal which is used for the liquefaction of natural gas or the importation, offloading and re-gasification of liquefied natural gas, including ancillary services”.

and

“A thermal power station or other combustion installation with a total energy output of 300 megawatts or more”.

8.2. **Environmental Impact Assessment**

8.2.1. Section 37E(1) of the Planning and Development Act, 2000 as amended states that *“an application for permission for development in respect of which a notice has been served under section 37B(4)(a) shall be made to the Board and shall be accompanied by an environmental impact assessment report in respect of the proposed development”.*

8.2.2. Part 1 of Schedule 5 sets out development for which EIA is mandatory. The following types of development are included:

2(a) A thermal power station or other combustion installation with a heat output of 300 megawatts

Part 2 of Schedule 5 sets out development for which certain types of development require EIA with the following developments included:

3(c) Installations for surface storage of natural gas, where the storage capacity would exceed 200 tonnes.

8.3. Appropriate Assessment

- 8.3.1. The site is within and adjoining the Shannon Estuary which is part of the Lower River Shannon SAC – site code 002165 and River Shannon and River Fergus Estuaries SPA – site code 004077.

9.0 Assessment

9.1. Procedural Matter

- 9.1.1. Following receipt of the request for a fourth pre-application consultation meeting by letter dated 22 January 2021, the prospective applicant was requested by the Board's representatives to consider whether it was appropriate to continue with the existing pre-application consultation process having regard to the description of the proposal as set out in the current pre-application and given that the previous permission on the site had expired; or whether a fresh pre-application process was required. I would note that, as stated in the prospective applicant's legal correspondence summarised below, it was clear to the Board's representatives during the first pre-application consultation meeting that the proposed development was not an alteration of the previous development. However, in the interest of clarity the request to the prospective applicant was sought.
- 9.1.2. The prospective applicant responded by way of a letter from their legal representatives, McCann Fitzgerald, dated 11 February 2021. The following is a summary of the arguments put forward to support the conclusion that the reference to 'alteration' in the brief summary used by the Board and the High Court Order of November 2020 do not provide any legal reason to withdraw the current pre-application consultation and commence a fresh process:

- Letter of 20 March 2019 to ABP, commencing the process, describes proposal in detail and did not describe proposal as a mere amendment or alteration to now expired 2008 permission;
- Only possible cause for confusion is brief summary of proposal used by the Board on its website and correspondence/records noting that the description used by the Board normally relates to the public notices which outline the development to the public and if public participation had been completed using this language there may be some risk of confusion but given no public notices provided and no public participation there is no risk of confusion on this basis. While Section 37C(4) does facilitate consultations with any person who may have information relevant, the only consultation undertaken by the Board was with the NPWS (23/06/2020) where no substantive discussion took place.
- Only risk of confusion is to the Board's understanding of the proposal and having reviewed records of the three meetings held, clear that proposal has never been described as dependent on now expired 2008 permission.
- Request for consultation was made under Section 37B and not Section 146B.
- While understandable interest in difference from what was previously permitted, the scope of the application is clearly recorded in minutes of first meeting as one that would 'include all constituent elements'. The proposal is different from before which is worth emphasis, but this does not make the proposal dependent or contingent on the now expired 2008 permission.
- Summary used by the Board does not delimit the nature and extent of the proposal and necessary analysis of Seventh Schedule and of eligibility criteria in Section 37A(2) does not and cannot rest on the summary particularly where the summary is not one produced by the prospective applicant.
- Any person reading beyond the brief summary should not be confused with the prospective applicants obligation under Section 37C(1) to provide sufficient information to enable the Board assess the development which is considered has been provided with the Board able to alert and invite any more information it may require.

- Any doubt in relation to the matter can easily be resolved by use of clear language in final written records setting out in more precise terms the nature and scale of what is proposed and what is being assessed;
- Note for sake of completeness that Board is not free to rely on merits or content of the quashed decision which is strictly an irrelevant consideration (*Balscadden Road SAA Residents Association Ltd v An Bord Pleanala* [2020] IHEC 586) but note that prospective applicant did not invite the Board to rely on quashed decision.
- Quashed decision remains a relevant consideration as part of the planning history of the site and clear Board does understand permission has expired and whatever weight might have been given before 9 November 2020 can be recalibrated accordingly.

9.1.3. Having regard to the arguments put forward by the prospective applicant, following receipt of the legal consideration above, it was considered by the Board's representatives, that the description set out in the Board's pre-application description was an administrative interpretation of the proposal when the pre-application request was received by the Board. I would note that there is no application form for the process which would require the prospective applicant to provide a description of the development it is proposing and therefore the summary description is an interpretation by the administrative officers who receive the documentation. It is clear from the documentation presented by the applicant that the proposed development does not comprise an alteration to a previously permitted development but rather the reference to the previously permitted development was provided for reference purposes. On this basis, it was considered acceptable to proceed with a fourth pre-consultation meeting within the current process.

9.1.4. I am satisfied that what has been presented to the Board in respect of the proposed development is clear and comprises a development distinct from and not related to anything previously permitted on the lands, which has now expired. The Board may wish to direct that the description provided for the pre-application consultation process is amended in the case management system to the following to appropriately describe the development sought in the initial correspondence of 20

March 2019, which as noted above has been subject to some amendment during the process:

The proposed development of a liquefied natural gas (LNG) regassification terminal together with already permitted CHP plant (Ref. 08.PA0028) including an LNG jetty to facilitate the berthing of a Floating Storage Unit, onshore vaporisation process equipment and administrative and associated buildings.

9.1.5. I will move forward in the next sections to the consideration of the matter before the Board – that being whether the proposed development is or is not strategic infrastructure.

9.2. **Strategic Infrastructure**

There are two matters which require consideration in respect of whether the proposed development comprises 'Strategic Infrastructure Development'. Firstly, whether the proposal comprises a development specified in the Seventh Schedule and secondly, if it does comprise a development specified in same, whether it falls within one or more of the criteria set out in Section 37A(2). I will address each in turn.

9.2.1. **Seventh Schedule**

Energy Infrastructure is included within Class 1 of the Seventh Schedule and includes "*an onshore terminal, building or installation, whether above or below ground, associated with an LNG facility and, for the purpose of this provision, 'LNG facility' means a terminal which is used for the liquefaction of natural gas or the importation, offloading and re-gasification of liquefied natural gas, including ancillary services*". Given that the development as set out by the prospective applicant in the presentation included in the final presentation comprises an onshore installation associated with an LNG facility the LNG terminal would comprise a Seventh Schedule development.

Class 1 also includes "*a thermal power station or other combustion installation with a total energy output of 300 megawatts or more*". Given that the CCGT has a total energy output of up to 600MW and therefore would exceed the 300MW threshold it

would also comprise a Seventh Schedule development. The development in its entirety is therefore a Seventh Schedule development.

9.2.2. **Tests in Section 37A(2)**

At the outset I would note that the previously permitted facility and the extant permission for the CHP power plant were both determined to comprise Strategic Infrastructure Development (References PC0002 & PC0137 apply). Other than stating that the CHP power plant would meet the tests in Section 37A(2)(a), there is little information for the Boards information in respect of the previous determinations/reports.

I would also note that the proposed development comprises the provision of both a gas supply and a power plant. The gas supply is proposed to (a) supply the national gas network via the permitted gas pipeline and (b) power the CCGT power plant proposed in this application which would generate power for the grid.

The applicant's case is set out in their presentations to the Board which are summarised in Section 6 above.

I will address each of the tests in Section 37A(2) in turn.

Section 37A(2)(a)

(a) the development would be of strategic economic or social importance to the State or the region in which it would be situate.

The prospective applicant's case in respect of this test is that the proposed development is required as it enhances energy security, it addresses electricity capacity shortfalls and it supports 70% renewables by 2030. This is outlined by reference to a number of National Plans/Statements. The prospective applicant refers to a number of plans and documents which they consider support the consideration of the proposal. I will address the matters firstly as it relates to gas supply (terminal) and secondly as it relates to generation (proposed CCGT).

Gas Supply

- 9.2.3. I would draw the Boards attention to the NPF which at National Strategic Outcome (NSO) 8 addresses the 'Transition to a Low Carbon and Climate Resilient Society' and states that: *"Ireland benefits from interconnection with the UK gas pipeline network and while there are two gas pipelines with two separate entry points into the*

island of Ireland, both pipelines are connected through a single facility in Moffat, Scotland. In addition, our gas storage capacity is limited, which poses a security of supply risk and constrains smoothing of seasonal fluctuation in gas prices". This is also repeated in the National Development Plan 2018-2027, where it is stated that "while a significant proportion of renewable power generation is being delivered from wind energy, given the intermittent nature of this technology, a proportion of Ireland's electricity needs will likely continue to be generated from gas over the medium to longer term. Reference is also made to supply and while the Corrib gas field has enhanced the security of supply, Ireland will still need to import gas via the UK on a long-term basis as Corrib production is projected to decline over the medium term. Reference is made to the gas pipeline twinning project (South-West Scotland On-shore System project), which involves the construction of 50 km of gas transmission pipeline from Cluden to Brighthouse Bay, Scotland".

I would also note the comments referenced by the prospective applicant from the National Energy and Climate Plan (NECP) 2021-2030 which states that *"given Ireland's high and increasing reliance on gas for electricity, our low import route diversity, Ireland's relatively high dependence on imported gas, which is likely to increase as the Corrib gas field progressively depletes, and the potential increasing role of gas in the energy mix for heat, transport and power generation including as a back-up for intermittent power generation, our objectives are to: Ensure the resilience of the gas network to a long-duration supply disruption, in the context of EU and national climate objectives".*

The prospective applicants argue that, given the rapidly depleting Corrib Gas supply and the reliance on a single point from the UK for 90% of gas by 2030, there is a security of supply issue with the potential for disruption to the single gas supply having potentially disastrous impacts on the Irish State. The proposed development is therefore seeking provide a new import route which they consider is necessary to protect Ireland from a potential disruption to the UK supply thereby limiting the exposure to distribution that reliance on one route provides.

Generation

In relation to potential shortfalls in generation, I would refer the Board to the Climate Action Plan 2019 which acknowledges that *"renewable generation is intermittent and often unpredictable. This creates new challenges for utilities, market participants,*

and policy makers. Intermittency also creates the need for a range of technology solutions which may include large-scale interconnection, storage, and dispatchable capacity (e.g., natural gas plants that can generate electricity at times where there is no wind). There is no one-size-fits-all answer to supporting 70% renewables". It is therefore apparent that an alternative to renewable energy is required when such shortfalls arise and I note reference by the prospective applicant to EirGrid's All-Ireland Generation Statement 2020-2029 that new additional gas fired conventional power plants are urgently required on the grid. It is the applicant's contention that the proposed CCGT would comprise such an additional plant and this appears reasonable.

In conclusion, on the basis of the aforementioned I consider that the proposal could be considered to be of strategic economic importance to the State and the region in which it would be situate. I therefore consider that the proposed development would meet the test in Section 37A(2)(a).

Section 37A(2)(b)

(b) the development would contribute substantially to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate.

Firstly, the Shannon Integrated Framework Plan is outlined as a case study/example in the National Planning Framework (NPF). Chapter 7 of the Framework is entitled "*Realising our Island and Marine Potential*". Within this Chapter the Shannon Estuary and in particular the Strategic Integrated Framework Plan is included as a case Study. The subject site is designated as a strategic development location (H) in the Shannon Integrated Framework Plan.

In relation to the RSES, Regional Policy Objective 79 includes as an objective the support and promotion of the "*delivery of the Strategic Development Locations as set out in the SIFP for the Shannon Estuary subject to the implementation of mitigation measures outlined in the SEA and AA undertaken on SIFP and zoned in the Local Authority Development Plans*".

In addition, Regional Policy Objective 142 refers to ports with the objective *to strengthen investment to deliver actions under National Ports Policy and investment in sustainable infrastructure projects that with Part (e) of same, seeking to support*

the sustainable development of the 9 strategic development locations adjoining sheltered deep-water in line with the recommendations of the SIFP for the Shannon Estuary and subject to the implementation of mitigation measures outlined in the SEA and AA undertaken on the SIFP. The RSES also specifically state that “the zoned lands at Tarbert/Ballylongford in North Kerry with extant planning for strategic energy and marine related industry including the Shannon Gas LNG project are a further example of the regional and national potential of the location”.

I note the prospective applicant specifically references RPO225(e), which deals with the gas network and which seeks to “*Strengthen the gas network sustainably to service settlements and employment areas in the Region, support progress in developing the infrastructures to enable strategic energy projects in the Region. An example is the Tarbert/Ballylongford landbank in Co Kerry which is a strategic development site under the Strategic Integrated Framework Plan*”.

I consider that given that the subject site is a designated strategic development location within the SIFP that it would come within the criteria for contributing substantially to the fulfilment of objectives in the National Planning Framework and the regional spatial and economic strategy in force in respect of the area or areas in which it would be situate. I consider that the proposed development would meet the test in Section 37A(2)(b).

Section 37A(2)(c)

The third test is whether *(c) the development would have a significant effect on the area of more than one planning authority*

The applicant, in their presentation at the fourth pre-application meeting, consider that the proposal would meet this test for two reasons. The first is that the construction and operation of the proposal will be subject to the navigation protocols of the Shannon Foynes Port Company and secondly that the shipping route for the proposed development also passes lands in the jurisdiction of Clare County Council.

While I do not consider that either of these arguments would meet the test of significant effect for the purposes of land use planning or environmental effects, I would suggest that given the significant change to the visual context of the site that it could be reasonably considered that the proposal would have a significant visual effect when viewed from the County Clare side of the estuary. I would point out that a significant change to the visual context has previously been permitted by way of

the previous permission on the site and the extant CHP plant. Notwithstanding, for the purposes of Section 37A(2)(c) I consider that this test would be met on the basis of visual effect.

Conclusion

The proposed development, therefore, meets all of the three tests in Section 37A(2)(a), (b) & (c).

9.3. Environmental Impact Assessment

9.3.1. As I outlined in Section 8.2.1 above, Section 37E(1) of the Planning and Development Act, 2000 as amended states that “*an application for permission for development in respect of which a notice has been served under section 37B(4)(a) shall be made to the Board and shall be accompanied by an environmental impact assessment report in respect of the proposed development*”.

9.3.2. An EIAR is mandatory for the following classes of development as outlined in Part 1 and Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended:

- *A thermal power station or other combustion installation with a heat output of 300 megawatts (Class 2(a) Part 1 of Schedule 5)*

The proposed CCGT power plant has a proposed output of up to 600 MW and therefore exceeds the threshold.

- *Installations for surface storage of natural gas, where the storage capacity would exceed 200 tonnes (Class 3(c) Part 2 of Schedule 5)*

It is stated that the Floating Storage Regasification Unit (FSRU) berthed at the LNG jetty would have a storage capacity of c.180,000m³. Converted to tonnes 180,000m³ would comprise 63,566 tonnes and therefore would exceed the threshold.

Therefore, an Environmental Impact Assessment Report is required to accompany any application for the proposed development which may be submitted to the Board.

9.4. Appropriate Assessment

- 9.4.1. The proposed development is located within and directly adjacent to two European sites, the Lower River Shannon SAC – site code 002165 and the River Shannon and River Fergus Estuaries SPA – site code 002165. The applicant has indicated that it is their intention to include an NIS with the application which is considered to be appropriate.

9.5. Prescribed Bodies

- 9.5.1. In view of the scale, nature and location of the proposed development, as described in this report, it is recommended that the prospective applicant should consult with the prescribed bodies listed in the attached Appendix in respect of any future application for approval.

9.6. Conclusion

- 9.6.1. Having regard to the above, I recommend that the Board serve a notice on the prospective applicant under section 37B(4)(a) of the Planning and Development Act, 2000, as amended, stating that it is of the opinion that the proposed development constitutes strategic infrastructure development.

10.0 Recommendation

Having regard to the provisions of the Planning and Development Act, 2000, as amended, and the nature of the development as set out in the documentation and particulars submitted, which comprises an LNG Terminal and a CCGT power plant at Ballylongford, Co. Kerry, it is considered that the proposed development comprises a Seventh Schedule development and falls within the scope of Section 37A(2)(a), (b) and (c) of the Planning and Development Act, 2000 (as amended). Accordingly, the proposed development would be strategic infrastructure within the meaning of the Act and any application for approval must therefore be made directly to the Board under Section 37E and should be accompanied by an Environmental Impact Assessment Report and Natura Impact Statement.

Una Crosse

Senior Planning Inspector

April 2021

Appendix

Prescribed Bodies

Minister for Housing, Local Government and Heritage
Minister for Environment, Climate and Communications
Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media
Minister for Agriculture, Food and the Marine
Kerry County Council
Clare County Council
The Southern Regional Assembly
Environmental Protection Agency
Commission for Regulation of Utilities
Transport Infrastructure Ireland
Fáilte Ireland
An Taisce
The Heritage Council
Inland Fisheries Ireland
Irish Water
Health and Safety Authority