



An
Bord
Pleanála

Inspector's Report

ABP-304056-19

Development

Install approximately 12.5km of 38kv electricity transmission line from the permitted (windfarm) substation in Stonestown, County Offaly to the electricity substation in Clondallow, County Offaly.

Location

Across the townlands of Stonestown, Kilcamin, Crancreagh, Derrinlough, Clooneen, Whigsborough, Galros East, Galros West, Cush, Boolinarig Big, Conspark, Ballaghanoher, Ross and Clondallow, Co Offaly

Planning Authority

Offaly County Council

Planning Authority Reg. Ref.

18230

Applicant

Gaeltech Energy Developments
Cloghan Ltd.

Type of Application

Planning Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant

Gaeltech Energy Developments Ltd.
Cloghan Ltd.

Date of Site Inspection

25th, September 2019 & 5th, December
2019

Inspector

Paddy Keogh

1.0 Site Location and Description

- 1.1.1. The site of the proposed development consists of a route for a 38 KV transmission line passing through the town lands of Stonestown, Kilcamin, Crancreagh, Derrinlough, Clooneen, Whigsborough, Galros East, Galros West, Cush, Boolinarig Big, Conspark, Ballaghanoher, Ross and Clondallow. The proposed route will connect a permitted wind farm at Clondallow to the existing 110 KV Dallow substation at Clondallow in Co. Offaly.
- 1.1.2. The site (38 KV transmission route) is located within a flat lowland area characterised by bog and peatland topography.
- 1.1.3. A mid-section of the site (c. 3.3 km – as amended by further information submitted to the planning authority) includes an underground route beneath the N 62.
- 1.1.4. Elsewhere underground and overhead sections the transmission line traverse open countryside.

2.0 Proposed Development

- 2.1.1. The proposed development involves the construction of a part-overground and part-underground 38 KV grid connection line which extends over a total distance of 12.5 km and will connect a permitted 9 turbine wind farm at Clondallow to the existing 110 KV Dallow substation at Clondallow.
- 2.1.2. The overhead line which will extend over 3.7 km will require the erection of 35 no. wooden pole sets (up to a maximum height of 16m) along which the transmission line will be suspended (3 no. separate cables will be suspended from each pole).
- 2.1.3. The underground sections of line which will extend over a distance of 8.8 km will consist of cable ducts being placed in a trench approx. 2m deep and 0.6m wide. Excavated materials (topsoil, subsoil, aggregates etc.) will be stored separately for use during the reinstatement of the trench or disposal to an appropriate licenced facility, as necessary.
- 2.1.4. It is proposed that c. 3.9 km (3.3 km, as amended) of the underground route will run beneath the carriageway of the N 62.

2.1.5. The application lodged with planning authority is accompanied by both an Environmental Impact Assessment Report (EIAR) and an Appropriate Assessment Screening - Addendum Report. The EIAR is entitled 'Environmental Impact Assessment Report/Environmental Impact Statement'. This reflects the fact that large sections of the EIAR are copies of the documentation contained in the Environmental Impact Statement (EIS) (now modified and updated for the purposes of EIAR) that accompanied the planning application lodged in respect of the Cloghan Wind Farm development previously permitted by the Board (Appeal No. 19.244053). The Appropriate Assessment Screening is included as Appendix No. 4 of the 'Environmental Impact Assessment Report/Environmental Impact Statement'. The Appropriate Assessment Screening document is entitled 'Appropriate Assessment Screening – Addendum Report' which reflects the fact that the report is a copy of a report previously requested by and submitted to the Board in the context of its consideration of the Cloghan Wind Farm development (Appeal No. 19.244053).¹

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Notification of a decision to refuse planning permission for the proposed development issued from the planning authority per Order dated 27th, February 2019. The single reason for refusal was as follows:

It is Council Policy STAP -17 of the Offaly County Development Plan 2014-2020 to protect the safety, capacity and efficiency of National Roads and associated junctions. It is considered that the Applicant has not sufficiently demonstrated that the proposed development will not have an adverse impact on the safety, capacity or operational efficiency on the National Roads Network in the vicinity of the subject site, given the risks of differential settlement along the N 62. It is therefore considered that the proposed development would materially contravene Policy STAP-17 as it would adversely impact on the capacity and efficiency of National roads, and therefore would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. A report from the planning authority Senior Executive Planner dated 18th, July 2018 includes;

- The principle of the proposed development is acceptable.
- The proposed development will not have a significant visual impact on the surrounding area.
- Roads Section require a number of items of further information including further details in relation to undergrounding of cabling and impact on the public road.
- Transport Infrastructure Ireland (TII) have raised concerns that the proposed development would have an adverse impact on the operation and safety of the national road network.
- The Senior Executive Planner's report recommends that the applicant be requested to submit a number of items of further information including at 'Item No. 2' specific (as opposed to generic) details of the various underground trenches affecting public roads (national road and national road verges) and at 'Item No. 3' details of the wearing course and full reinstatement of public road surfaces and at 'Item No.6' to address the concerns raised by TII in relation to the impact of the proposed development on the capacity, safety and operational efficiency of the national road network in the vicinity of the site.

3.2.3. A further report from the planning authority Senior Executive Planner dated 27th, February 2019, (following the receipt of further information requested by the planning authority) includes:

- Minor alteration to the underground cable route noted – relocation of a section proposed along the L70152 to within private lands directly south of the public road. (will not alter the substantive findings of the EIAR).

¹ The Cloghran Wind Farm planning application was submitted and decided prior to the last date (May 2017) for the transposition of amending 2014 EIA Directive and prior to the publication of EU (Planning & Development) (Environmental Impact Assessment) Regulations 2018 (SI No. 2016 of 2018). Thus, the latter application was accompanied by an EIS rather than an EIAR.

- Roads Design Department having considered the contents of the further information submission (particularly in relation to 'Item No. 6') recommended that planning permission for the proposed development be refused (see below). Furthermore, TII are of the opinion that insufficient data has been submitted to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site (proposal for trenching in the carriageway of the N62 does not address the potential for differential settlement between the settlement and the surrounding road).
- In considering the proposal the planning authority shall be guided by the Roads Section, the Birr Area Engineer and TII, who have extensive knowledge with regard to the Council's road network and assessing proposed development relating to this road network. All three of the aforementioned have serious concerns in terms of siting of the proposed cabling route. In this regard, it is considered that the applicant has not demonstrated that the proposed development will not have an adverse impact on the safety, capacity or operational efficiency of national roads in the vicinity of the site.

The decision of the planning authority reflects the recommendation of the Senior Executive Planner to refuse planning permission.

3.2.4. Other Technical Reports

3.2.5. **Road Design Section** – Report dated 22nd, February 2019 (following the receipt of further information) states that, having examined the submissions from TII in relation to the proposal (see Section 3.3.2 below), it is recommended that planning permission for the proposed development be refused. The report includes:

- Clarity provided with the initial submission was poor. Clarity has now been provided but significant concerns arise. The proposal (as amended by further information) proposes that 3.3 km of cable be routed under the N 62. In addition to the disruption caused by the installation of the pipe in the carriageway, this road is bound on peat and is subject to ongoing differential settlement. The development would have a significant cost implication for any future peat replacement scheme on the N 62.

- Sections of of the N62 constructed over peat are typically constructed on Ramparts. The applicant has chosen not to construct the cable in the verge citing that the cable trench 'could impact on the integrity of the public road'. The planning authority shares this opinion. However, the concerns are equally valid for the trenching proposed in the public road.
- The planning authority shares the concerns of TII in relation to the applicant's failure to assess alternatives to cabling in the N 62. The applicant makes reference to some alternatives in the submitted further information. However, the planning authority are aware of other options available to the developer which would avoid the need to cable the N62 which merit further exploration.

3.2.6. **Fire Officer** - Report dated 11th, January 2019 indicates no objection to the proposed development subject to conditions.

3.2.7. **Environment Water Services** – Report dated 4th, February 2019 (following the receipt of further information) indicates no objection to the proposed development subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. **Dept. of Culture, Heritage & Gaeltacht** – Report dated 3rd, July 2018 indicates no objection to the proposed development subject to conditions in keeping with the conclusions and recommendations contained within the submitted EIAR in relation to archaeological monitoring.

3.3.2. **Transport Infrastructure Ireland (TII)** - Report per letter dated 6th, February 2019 (following the receipt of further information) includes:

- TII recommends that the planning authority must be satisfied that the proposed cabling route represents the most appropriate cabling route (alternative) having regard to the provisions of the Development Plan.
- TII remains of the opinion that insufficient data has been submitted with the planning application to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site.

- Having regard to the nature of the road structure at this location, TII remains concerned with the adequacy of the proposals relating to the reinstatement of the N62, national road. Proposals do not address the potential for differential settlement between the reinstatement and the existing surrounding road given the existing ground conditions. The potential for differential settlement raises a concern for road safety and the overall structural integrity of the existing road that the Council should resolve prior to any decision on the subject planning application.
- In relation to the applicant's comments regarding consultation/lack of consultation with TII, TII remains of the view that the issues arising remain best addressed by Offaly County Council as planning and roads authority for the area concerned. To assist, TII confirms availability to discuss the issues raised in this submission.

3.4. Third Party Observations

3.4.1. Three third party observations in relation to the proposed development were received by the planning authority:

(1) ***Anne Frawley, Rathcabbin, Co. Tipperary:***

Objects to the proposed development on grounds relating to lack of local consultation, Clondallow is not the nearest substation to the site and negative impact on flora and fauna in the area.

(2) ***Breen, Frawley, Curley and Ryan Families, Clondallow***

Object to the proposed development on grounds of lack of local consultation, disruption to local residents during the construction phase and methodology used in relation to the choice of location for grid connection.

(3) ***Peter Sweetman***

Submission states that the Board must confirm that local road owners have given their permission for this development (per Daly – v – Kilronan Wind Farm Ltd. 2016 372 MCA). The Appropriate Assessment in this case must include the connected case Reg. Ref. 14/188 (Appeal No. 19.244053).

4.0 Planning History

- 4.1.1. There is no record of recent planning history on the subject site. However, the proposed development involves the construction of a grid connection (12.5 km of 38 KV transmission line between a permitted substation in Stonestown and the existing substation in Clondallow) which will serve a 9 turbine wind farm permitted (to the current applicant/appellant) by the Board under Appeal No. 19.244053. Consideration of the route (the appeal site) was included in the Environmental Impact Assessment (EIA) conducted by the Board in relation to the latter appeal.

Appeal No. 19.244053 (Planning Authority Reg. Ref. 14/188) – 10 year planning permission for a 9 wind turbines each with a hub height of 100 m., a typical rotor diameter of 103 m. (overall maximum tip height of 150 m.) and all associated works on lands at Stonestown, Kilcamin, Crancreagh and Derrinlough, Cloghan Co. Offaly granted by the Board per Order dated 27th, October 2016.

Appeal No. 19/242354 (Planning Authority Reg. Ref. 12/293). Planning permission for a 10 turbine Wind Farm on a site similar to the site of Appeal No. 19.244053 (the ‘*Cloghan Wind Farm*’) was refused by the Board. The single reason for refusal related to visual intrusion into the landscape.

Appeal No. 19.244903 - Planning permission for a 5 turbine wind farm (Meenaun Wind Farm) in the townlands of Clongawny More, Clongawny Beg, Cloonacullina, Clondallow etc. Banagher, Co. Offaly was granted by the Board in October 2015.

Reg. Ref. 12/65 Planning permission was granted by the planning authority on 22nd, June 2012 to Gaeltech Energy Developments Ltd. for installation of an anemometer mast for the purpose of measuring wind speed at the site. (construction works for this development were completed in October 2012).

5.0 Policy Context

5.1. National Policy and Guidelines

- 5.1.1. ***Delivering a Sustainable Energy Future for Ireland – The Energy Policy Framework 2007-2020***

- 5.1.2. This is a Government White Paper. The overriding objective is to ensure that energy

is consistently available at competitive prices, with minimal risk of supply disruption. It is an objective to achieve 15% of electricity consumption, on a national basis, from renewable energy sources by 2010, and 33% by 2020 (target increased to 40% in Government budget speech of 2009).

5.1.3. *National Renewable Energy Action Plan 2010*

This Plan implements EU Directive 2009/28/EC on the promotion of the use of energy from renewable sources, which sets out agreed new climate and energy targets- 20-20-20 by 2020 – 20% reduction in greenhouse gas emissions; 20% energy efficiency, and 20% of the EU's energy consumption to be from renewable sources. In relation to the electricity sector, the plan has set a target of 40% electricity consumption from renewable sources by 2020.

5.1.4. *Strategy for Renewable Energy, 2012–2020*

The Strategy for Renewable Energy, 2012–2020 is the most recent policy statement on renewable energy. It reiterates the Government's view that the development of sources of renewable energy is critical to reducing dependency on fossil fuel imports, securing sustainable and competitive energy supplies and underpinning the move towards a low-carbon economy. The Strategy sets out specific actions the Government will take to accelerate the development of wind, ocean and bio-energy, R&D, sustainable transport energy, and supporting energy infrastructure. Strategic Goal 1 aims to achieve progressively more renewable electricity from onshore and offshore wind power for the domestic and export markets.

5.1.5. *Ireland's Second National Energy Efficiency Action Plan to 2020 (March 2013)*

This Plan sets out strategy to reduce Ireland's dependence on imported fossil fuels, Improve energy efficiency across a number of sectors and ensure a sustainable energy future.

5.1.6. *Guidelines for Planning Authorities on Wind Farm Development and Wind Energy Development 2006*

The Guidelines offer advice on planning for wind energy through the Development Plan process, and in determining applications for planning permission, and are

intended to ensure consistency of approach in the identification of suitable locations for wind energy developments and acknowledge that locational considerations are important. These considerations include ease of vehicular access and connection to the electricity grid. It is acknowledged that visual impact is amongst the more important issues when deciding a particular application.

5.1.7. Section 5.6 of the Guidelines states that noise is likely to be a problem at less than 500m. Section 5.12 states that shadow flicker impact at neighbouring offices and dwellings within 500m should not exceed 30 hours per year or 30 minutes per day. At distances greater than 10 rotor diameters, the potential for shadow flicker is very low.

5.1.8. **Draft Revised Wind Energy Development Guidelines (2019)**

5.1.9. These Draft Guidelines were issued by the Department of Housing, Planning and Local Government on 12th, December 2019 with a closing date for public consultation on the 19th, February 2020.

5.1.10. The Draft Guidelines contain changes to the currently operative 2006 Guidelines. Section 5.7 set out details of a new 'preferred approach' to noise impacts from wind farms including the setting of new daytime and night-time based on World Health Organisation standards. Section 6.18.1 recommends new minimum setback distances from dwellings (4 times turbine tip height subject to a mandatory minimum setback of 500m). Section 5.8 outlines that the problem of shadow flicker is limited in nature at Ireland's latitude and that the technology is available to provide for the turning off of turbines for the limited duration of any problems of shadow flicker all of which can be satisfactorily predicted.

5.1.11. Section 4.14 of the Draft Guidelines states that it is recommended that environmental assessments address reasonable alternatives for the location of new wind energy developments, and where existing infrastructural assets such as sub-stations, power lines and roads already exist within proposed development areas, then such assets should be considered for sustainable use by the proposed development where the assets have the capacity to absorb the new development.

5.1.12. Section 7.14 of the Draft Guidelines states that a condition should be attached to all planning permissions which involve a wind energy development which requires EIA or AA, but does not include the grid connection as part of the application, to ensure that no works shall commence on the wind energy development until a separate planning

permission for the grid connection has been obtained. Section 7.15 states that a condition should also be attached to all planning permissions for the grid connection, which should specify the nature of the connection (i.e. underground/overground/a combination of the two as outlined in the planning application submission).

5.2. Offaly County Development Plan 2014-2020

- 5.2.1. Chapter 3 of the Development Plan sets out the Energy Strategy. The wind energy strategy map (Map 3.2) demonstrates areas in which applications for wind energy development will be open for consideration subject to site specific considerations and layout. In areas suitable for wind energy development, the development of wind farms and smaller wind energy projects shall be open for consideration where projects can demonstrate that they will not have likely significant effects on the conservation objectives of European Sites.
- 5.2.2. In relation to cutaway bog, the Development Plan states that: “The characteristics of cutaway bog appear to be particularly suitable for wind development. The individual sites on cutaway *bogs are large and generally uninterrupted by hedgerows, streams or other natural features Many are already connected to each other via corridors (i.e. bog railway routes), which will allow for transmission infrastructure and roadways to be built between sites, avoiding impacts on the public road in terms of traffic or visual impact.*
- 5.2.3. Policy AHAP-01 of the Development Plan states that “It is Council policy to protect and preserve the county’s primary areas of high amenity’ including the Slieve Bloom Mountains, Clonmacnoise Heritage Zone, Durrow High Cross, Abbey and surrounding area.

5.3. Natural Heritage Designations

- 5.3.1. There are 23 Natura sites within 15km of the study area. These are, as follows:
- River Shannon Callows cSpecial Area of Conservation (SAC) (00216) 4.9km west.
 - Middle Shannon Callows Special Protection Area (004096) 4.9km west.
 - All Saints Bog SPA (004103) 8km southwest.
 - All Saints Bog and Esker cSAC (00566) 8km southwest.
 - Ridge Road, SW Rapemills cSAC (000919) 9km southwest.

- Dovegrove Callows SPA (004137) 9km southwest.
- Ferbane Bog cSAC (00575) 9.4km north.
- Little Brosna Callow SPA (004086) 3km southwest.
- Redwood Bog cSAC (002353) 13.4km southwest.
- Ballyduff Clonfinane Bog cSAC (000641) 14.3km southwest.
- Lisduff Fen cSAC (002147) 15km south.
- Island Fen cSAC (002236) 15km south.
- Kilcarren Firville Bog cSAC (000647) 10.5 km southwest.
- Sharavogue Bog cSAC(000585) 12.5 km. south.
- Liskennen Fen cSAC (0001683) 13 km. southwest.
- Clonaslee Eskers and Derry Bog (000859) 13 km east.
- Clara Bog (000572) 13 km. north.
- Moyclare Bog cSAC (000581) 4.9 km. north.
- River Suck Callows SPA (004097) 13 km north-west.
- Fin Lough (Offaly) cSAC (000576) 13 km north-west.
- Mongan Bog cSAC (000580) 13 km north-west.
- Mongan Bog SPA (004017) 13km north-west.
- Pilgrim's Road Esker cSAC (0001776) 13 km north-west.

6.0 Environmental Impact Assessment Screening

- 6.1.1. The High Court has held in the case of *Pól O'Grianna & Others v An Bord Pleanála IEHC 362 [2014] (Peart, J)* that grid connection works must be regarded as an integral part of the project for a wind farm in respect of Environmental Impact Assessment.
- 6.1.2. Environmental Impact Assessment (EIA) undertaken in respect of wind farm projects should include the cumulative impacts of the grid connection. Similarly, planning applications for grid connections must consider the cumulative effects of the grid connection and the wind farm in carrying out the EIA.
- 6.1.3. An EIAR in respect of the grid connection has been submitted with the current application.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The submitted grounds of appeal include:

- Refute that the proposed development would have an adverse impact on the safety, capacity or operational efficiency of the national roads network and would not, therefore, materially contravene Policy STAP-17 of the Development Plan.
- The decision to refuse planning permission is unreasonable.
- The issue of safety, capacity and efficiency of national roads and associated junctions in the vicinity of the subject site, including the N 62, was raised by the planning authority in a request for further information in the course of the current application. In light of the assessment undertaken by Traffic, Transport and Road Safety Associates (TTRSA) and the assessment undertaken as part of the original Environmental Impact Statement for the permitted Cloghan Wind Farm the Board had previously concluded that the proposed underground grid connection along this general route (including undergrounding along the N 62) would not result in any likely impact on the safety, capacity and operational efficiency of the national road network.
- Following a normal consultation process, the applicant received a letter of consent from the Birr Municipal District Office granting consent to make an application to make the proposed development within the N62 public road. Notwithstanding the fact that the letter was issued without prejudice it is not unreasonable to conclude that the Municipal District Office and local Roads Engineer did not hold any fundamental concerns regarding the siting and design of the proposed development.
- The potential risks of differential settlement along the N62 were at no time raised by the planning authority in the request for further information. It is unreasonable to expect the applicant to now address concerns never raised in the planning authority request for further information.

- As advised by the planning authority in its request for further information, the applicant attempted to engage directly with Transport Infrastructure Ireland (TII) prior to formally responding to the planning authority request for further information. The applicant was informed by TII that they were not in a position to engage directly and that the points raised were matters for the planning authority to address as planning and roads authority for the area. The first indication of any concern in respect of this matter was raised by TII was set out in their submission in response to the further information submitted by the applicant.
- Any concerns of the planning authority regarding differential settlement along the N62 could be adequately addressed by way of the attachment of a condition to a grant of planning permission. The applicant would welcome a condition attached to any consent requiring the precise technical engineering and reinstatement specifications of all in-road works to be agreed in writing with the Municipal District Office and the TII prior to the commencement of development.
- Jennings O'Donovan & Partners Agents for the applicant have proposed technical engineering specifications and a methodology which would prevent potential for any adverse impact on the safety, capacity and operational efficiency of the N 62 owing to any risks associated with differential settlement (Annex 1 of submitted grounds of appeal). In light of the availability of appropriate Engineering solutions to prevent any risks associated with differential settlement occurring it is submitted that the stated reason for refusal is entirely unwarranted.
- The proposed development has been designed in accordance with all national, regional and local policy regarding the provision of electricity lines accompanying renewable energy projects. The Cloghan Wind Farm is a fully permitted renewable energy project which can contribute to the achievement of these targets in the short-term. Other than the minor technical objection, the planning authority has not raised any concerns in respect of the proposed development which is otherwise in accordance with the proper planning and sustainable development of the area.

- The Review of the Wind Energy Development Guidelines 2006 (2017) proposes that, connections from wind farms to the national electrical grid should be generally located underground, except where ground conditions prevent this.
- The planning application for the proposed development was accompanied by an EIAR which assessed all required environmental factors including transport. The EIAR concluded that the proposed development including the siting of an underground cable within the N62 was not likely to result in any likely significant effects on transport during either the construction or operation phases of the development. It also concluded that cumulative effects with other wind farms permitted in the area were unlikely to occur.
- In considering the application for the Cloghan wind farm (Appeal No. 19.244053) the Board sought further information from the applicant (in accordance with the *O’Grianna* judgement) in relation to potential grid connection route options. Two alternative route options were provided to the Board. The Board concluded that *‘the effects on the environment of the proposed development would be acceptable, by itself and cumulatively with other developments in the vicinity, including other wind farms and the proposed grid connection alternatives.*

7.2. Planning Authority Response

- 7.2.1. A submission from the planning authority per letter dated 8th, April 2019 states that the planning authority has no further comment to make in relation to this appeal and request that decision of the planning authority be upheld by the Board.

8.0 Assessment

The main issues of this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- (1) Impact on N62
- (2) Environmental Impact Assessment
- (3) Appropriate Assessment Screening

8.1. **(1) Impact on N62**

- 8.1.1. The key issue in this appeal relates to the proposal to locate a c. 3.3 km section of the proposed grid connection cable underground beneath the N62.
- 8.1.2. The planning authority have issued a decision to refuse planning permission for the proposed development on the grounds that the applicant has not demonstrated that the proposed development will not have an adverse impact on the safety, carrying capacity or operational efficiency of the National Road network given the risk of differential settlement along the N62. This decision reflects the concerns of TII in submissions made to the planning authority.
- 8.1.3. The submitted grounds of appeal assert that the proposed development will not adversely affect the safety, capacity or operational efficiency of the national roads network.
- 8.1.4. The grounds of appeal highlight the fact that following a normal consultation process the applicant received a letter from the Birr Municipal District office granting consent to the making of the current application to include a section of underground cabling within the N 62. Based on this letter the applicant concluded that the Municipal District Office and the local Roads Engineer had no fundamental objections to the proposed development. The applicant acknowledges that this letter was issued on a 'without prejudice' basis.
- 8.1.5. The submitted grounds of appeal highlight the fact that the concerns of TII in relation to the routing of a section of the proposed grid connection beneath the N 62 only emerged in submissions by TII to the planning authority that prompted a request for further information by the planning authority. More particularly, the ultimate concerns of TII only became apparent in a submission from TII to the planning authority following the applicant's response to the further information submitted by the applicant.
- 8.1.6. The grounds of appeal further highlight the fact that the Board in granting planning permission for the Cloghran Wind Farm (Appeal No. 19. 244053) conducted an

Environmental Impact Assessment (with the benefit of the analysis provided by Traffic, Transport and Road Safety Associates (TTRSA) that formed part of the submitted Environmental Impact Statement) and concluded that the proposed grid connection route (essentially along the route now being proposed, including undergrounding of the cable along a section of the N 62) was acceptable.

8.1.7. From a procedural point of view, I acknowledge the frustration expressed by the appellant in the submitted grounds of appeal insofar as the technical objections of TII (and the planning authority Roads Engineer) with regard to the impact of the proposed grid connection on the safety, carrying capacity and operational efficiency of the N62 only emerged at a late stage in the overall Wind Farm and associated grid connection project. However, notwithstanding this fact, the appeal currently before the Board must nonetheless be determined having regard to the merits of the case. In this context, regard must be had to the concerns of TII in relation to the impact of the proposed development on the national road network.

8.1.8. The High Court decision in Pól O’Grianna & Others v An Bord Pleanála makes it clear that grid connection works must be regarded as an integral part of the project for a wind farm in respect of Environmental Impact Assessment. Thus, consideration of the environmental impacts of a proposed wind farm cannot be considered in isolation from the environmental impacts of the associated grid connection and vice versa. Nonetheless, it has been determined that consent for a wind farm project can be granted separately to the consent for the grid connection. This position is acknowledged and reflected in the Draft Revised Energy Development Guidelines (2019).

8.1.9. Consideration of the environmental impacts of a proposed grid connection route (or route alternatives) in the context of the conduct of an Environmental Impact Assessment and/or Appropriate Assessment prior to the granting of consent for a wind farm does not preclude the possibility that in the context of the consent process in respect of the grid connection other issues may arise in respect of the grid connection that present obstacles to the granting of consent in respect of a given grid connection route. Thus, the decision of the Board in respect of the Cloghran Wind Farm (Appeal No.244053) and the determination made by the Board in the context of the Environmental Impact Assessment conducted in relation to the Wind Farm and grid

connection (options) does not, in my opinion, preclude the determination of any subsequent application for consent for a grid connection taking into consideration matters that are not strictly environmental considerations (e.g. road safety etc.) or taking into consideration planning matters that have subsequently emerged in light of new information available to the Board.

- 8.1.10. In the context of the proposed grid connection TII have reported significant concerns in relation to the proposal to route a section of the proposed grid connection underground beneath a c. 3.3 km section of the N 62. These concerns relate to the substrata of this section of the N 62 which is characterised by peat. TII consider that the potential for differential settlement following excavation works in order to provide a trench for the laying of the grid connection cable has not been adequately addressed by the applicant. It is submitted that differential settlement following the reinstatement of this section of the N62 has the potential to adversely impact upon the safety, capacity and operational efficiency of the national road. TII have flagged that a potential problem arising as a consequence of differential settlement arises irrespective of whether a trench to accommodate the proposed grid connection cable is placed underneath the carriageway of the N 62 or within the margin of the N 62. This problem stems from fact that the N 62 crosses bog (with peat substrata to the carriageway) in this area.
- 8.1.11. The planning authority Roads Design Section shares the conclusions presented by TII in regard to the unacceptability of the proposed grid connection route based on the potential impact of the proposed development on the safety, capacity and operational efficiency of the N 62.
- 8.1.12. The submitted grounds of appeal include a report prepared by Jennings O'Donovan Consulting Engineers (dated 25th, March 2019). This report highlights the Consultants extensive experience in the design, supervision and project management of wind farm grid connections across a variety of ground conditions including peat. The report notes that differential settlement occurs when a structure's supporting foundations consolidate in an uneven fashion. It is acknowledged that the proposed grid connection has the potential to create such effects. However, it is stated that appropriate engineering solutions are available to ensure that differential settlement does not occur. The report provides a methodology which it is suggested will entirely mitigate any potential for differential settlement and associated risks to safety, capacity

and operational efficiency of the N 62. This methodology includes the conduct of surveys (of road, road verges, location of utility services etc.) to inform the pre-construction design process; provision of firm foundations for joint bays (within trenches) either over excavation to solid ground or by piling depending on the actual dept of peat at selected locations. A floated type construction detail is proposed rather than taking trench foundation to solid ground in certain circumstances. In these instances, the provision of appropriately located geotextile within trenches will eliminate the possibility of differential settlement (details provided Drgs. Nos. 5508-PC-100-2 and 5508-PC-100-1). The report further states that regular consultation and meetings will be held with the planning authority during the pre-construction process and the detailed design will be subject to agreement with the planning authority prior to the commencement of development.

- 8.1.13. Reports on file from the planning authority Area Planner, Roads Design Section/Engineer have consistently concluded (in keeping with the concerns expressed by TII) that, given the potential for differential settlement, the proposed development would give rise to potential to adversely affect the safety, capacity and operational efficiency of the national road (N 62). Having considered the grounds of appeal circulated to the planning authority (including the report prepared by Jennings O'Donovan Consulting Engineers dated 25th, March 2019) the planning authority responded saying that they have no further comment to make in relation to this appeal and requesting that the decision of the planning authority be upheld.
- 8.1.14. The planning authority response to the submitted grounds of appeal does not specifically address technical details in relation to the construction of proposed underground grid connection trenches proposed beneath the N 62. Nonetheless, the planning authority remains resolute that planning permission for the proposed grid connection route option now being proposed should be refused.
- 8.1.15. I consider that significant weight attaches to the concerns of TII and the planning authority (as planning and roads authority for the area) in relation to the potential adverse impact of the proposed grid connection on a national road.
- 8.1.16. I note that the section of the N 62 that will be effected by the proposed underground grid connection route serves significant volumes of traffic including heavy goods vehicles including trucks travelling on a daily basis to and from the nearby Bord na

Mona peat processing and briquette manufacturing plant (located just north of the section of N 62 carriageway affected by the proposed underground cable). Many trucks travelling from the Bord na Mona plant are fully laden with very heavy loads.

8.1.17. In my opinion, the construction methodologies and technical design details provided in the report prepared by Jennings O'Donovan which rely to a significant degree on methodologies and technical details set out in the submitted EIAR and considered by TII and the planning authority do not satisfactorily address the concerns expressed in the relation to the potential for differential settlement following reinstatement of the N 62. I consider that these construction and technical design details might be acceptable in relation to the provision of underground trenches along lightly trafficked local or even lightly trafficked regional roads. However, I consider that the applicant has not satisfactorily demonstrated that the proposed measures would overcome the potential for differential settlement along the national road N 62 which carries high volumes of traffic a significant proportion of which is heavy goods vehicle traffic. On balance, therefore, on the basis of the documentation on file, including the documentation accompanying the submitted grounds of appeal, I consider that the Board cannot be satisfied that the proposed development does not have the potential to have an adverse impact on the safety, capacity and operational efficiency of the national roads network.

8.2. **(2) Environmental Impact Assessment**

Introduction

- 8.2.1. The application is accompanied by an Environmental Impact Assessment Report (EIAR) which was prepared by Gaeltech Energy Services`. The proposed development involves the construction of c. 12.5 km 38KV electricity transmission line (grid connection) from the permitted Cloghran Wind Farm in the townland of Stonestown, Co. Offaly to connect with the existing 110 KV Dallow substation in the townland of Clondallow, Co. Offaly (via. Kilcamin, Crancreagh, Derrinlough, Clooneen, Whigsborough, Galros East, Galros West, Cush, Boolinarig Big, Conspark, Ballaghanoher, Ros and Clondallow).
- 8.2.2. The proposed grid connection involves the provision of 8.8 km of underground line (of which 3.3 km will be routed beneath the N62) and 3.7 km of overhead line.

- 8.2.3. The proposed development is not a type, scale or threshold of development in respect of which EIA is mandatory. Schedule 5, Part 1, Paragraph 20 specifies that the 'construction of overhead electrical power lines with a voltage of 220 KV or more and a length of 15 kilometres' shall be subject to EIA. The proposed development involves the provision of a combination of underground and overhead electrical power lines with a voltage of 38 KV and a length of c. 12 km. Therefore, the proposed development does not exceed the later threshold. Furthermore, there is no requirement for underground lines to be subject to EIA. However, the decision of the High Court in the 'O'Grianna Case' (see Section 6.0 above) makes it clear that the development of a Wind Farm and a grid connection are indivisible for the purposes of EIA. The proposed grid connection (which will attach to a Wind Farm which is of a class and threshold of development requiring EIA), therefore, is brought within the scope of the regulations for the purposes of EIA.
- 8.2.4. The application falls within the scope of the amending 2014 EIA Directive (Directive 2014/52/EU) on the basis that the application was lodged after the last date for transposition in May 2017. The application does not fall within the scope of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018, as the application was lodged on 5th, July 2018 before these Regulations came into effect on 1st September 2018.
- 8.2.5. The submitted EIAR document is entitled 'Environmental Impact Assessment Report / Environmental Impact Statement'. This reflects the fact that the contents of the document are substantially the same as the contents of the EIS (and supplementary EIS) that accompanied the application for the Cloghan Wind Farm development which was granted by the Board in October 2016 (Appeal No. 19.244053). Volume 1 of the EIAR refers to the Grid Connection. Volume 2 of the EIAR refers to the Wind Farm.
- 8.2.6. The impact of the proposed development is addressed under all relevant headings with respect to the environmental factors listed in Article 3(1) of the 2014 EIA Directive. An overview of the likely significant effects and main interactions between these matters is provided at Section 4, Volume 1.
- 8.2.7. The EIAR provides details with regard to the consideration of alternatives in Section 1.6, Volume 1. Two alternative route options for the Cloghan Wind Farm grid connection route were considered. Option A provides for a 7.9 km underground route

between the Wind Farm and Lumcloon substation and Option A provided for a grid connection to Dallow substation as per the current application. Option A, the shorter route and preferred option, cannot be progressed due to uncertainty in relation to the future status of the existing substation at Lumcloon. In my opinion reasonable alternatives have been explored and the information contained in the EIAR with regard to alternatives provides a justification in environmental terms for the alternatives chosen and is in accordance with the requirements of the 2014 EIA Directive.

- 8.2.8. I have carried out an examination of the information provided by the applicant, including the EIAR and the submissions made during the course of the application. A summary of the results of the submissions made by the planning authority, prescribed bodies and observers has been set out in Section 3.0 of this report. The main issues raised are specific to EIA relate to (i) methodology used and consideration of alternatives, (ii) consideration of cumulative impacts together with the permitted Cloghan Wind Farm, (iii) Material Assets – N62, National Secondary Road.
- 8.2.9. Section 1.6, Volume 2 presents a list of the main contributors / authors involved in the preparation of the Wind Farm EIAR (prepared as an EIS). The main contributors and Consultants involved in the preparation of Volume 1 (grid connection) are as set out in each section of the EIAR.
- 8.2.10. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained within the EIAR and supplementary information provided by the developer , adequately identifies and describes the direct and indirect and cumulative effects of the proposed development on the environment and complies with Article 94 of the Planning and Development Regulations, 2001, as amended.

Environmental Factors

- 8.2.11. The sections below address each of the environmental factors. The headings used in the EIAR are as follows:
- Population and Human Health
 - Biodiversity
 - Land and Soil
 - Water

- Air & Climate
- Landscape
- Cultural Heritage
- Noise & Vibration
- Radiation
- Shadow Flicker
- Material Assets
 - (i) Transport & Access
 - (ii) Telecommunications & Services
 - (iii) Agriculture
- Interactions of the Foregoing
- Cumulative Impacts

Population & Human Health

8.2.12. Population & Human Health are dealt with in Section 4 of the EIAR.

8.2.13. The proposed development will have limited impacts on population and human health during the construction phase (short term dust and noise nuisance and disruption of traffic). Post-construction the main impact of the proposed development will be the visual impact of the proposed overhead transmission line on the landscape.

8.2.14. The transmission line design and construction will be informed by 'The Electromagnetic Fields International Commission on Non-Ionising Protection' as recommended by the ESB Networks thus ensuring that there will be no impact on human health.

8.2.15. The EIAR concludes that the only impact on the socio-economic and human environment will be positive.

8.2.16. Based on the documentation submitted with the Application and the information contained in the EIAR I am satisfied with this conclusion.

Biodiversity

8.2.17. Biodiversity is addressed in Section 4.2 of the EIAR

- 8.2.18. The EIAR classifies the wider environment in the vicinity of the site as 'moderately sensitive' based on the proliferation of sites that have been designated for nature conservation (SPAs, SACs, NHAs and pNHAs).
- 8.2.19. The AA Screening Report submitted with the application concludes that the proposed development will have no likely significant impacts on any Natura 2000 site.
- 8.2.20. Potential adverse impacts during the Construction Phase include impacts arising due to the construction of tracks through the Wind Farm and on (underground and over ground) sections of the route of the grid connection including the construction of poles (and associated soil mounds). Adverse impacts will be mitigated against by the use of appropriate construction methodologies
- 8.2.21. The likelihood of impact on birds, mammals and aquatic ecology have been assessed to be low in terms of ecology and sensitivity. The EIAR concludes that the proposed development will not result in any significant deterioration in the quality of habitat as a consequence of construction phase impacts.
- 8.2.22. In the event that repair works are necessary during the lifetime of the Wind Farm impacts will be similar to those in the construction phase.
- 8.2.23. The proposed grid connection is essentially inert and the EIAR concludes that the impact during the operational phase will be of no significance.
- 8.2.24. Based on the information contained within the EIAR I am satisfied with these conclusions.

Land & Soil

- 8.2.25. Land & Soil are addressed in Section 4.3 of the EIAR.
- 8.2.26. Geological and hydrological impact assessments have been carried out (Annex 4 of the EIAR)
- 8.2.27. Construction phase impacts associated with the creation of the underground grid connection route will be related to the digging on a trench (c. 12.m X 0.6m). Excavated material, including topsoil, subsoil and aggregates, will be cast aside and stored separately. This material will be used for the reinstatement of the trench, where appropriate. Any excess material will be disposed of to a licenced facility. There will be no movement or transport of material as a consequence of the construction of transmission pole lines.

8.2.28. The EIAR concludes that the proposed development will have a negligible temporary impact on existing land and soil conditions. Furthermore, in light of the lack of significant impact on the baseline geological and hydrogeological conditions of the area the need for mitigation measures does not arise.

8.2.29. Based on the information contained within the EIAR I am satisfied with these conclusions in terms of the assessment of the environmental impacts of the proposed development. (However, this conclusion must be interpreted in light of comments under the heading 'Material Assets' below).

Water

8.2.30. Water is addressed under Section 4.4 of the EIAR.

8.2.31. As no in stream works are proposed to be undertaken the potential for adverse impacts during the construction phase are limited in nature.

8.2.32. While the proposed development traverses a number of surface water features which are hydrologically connected to designated sites for nature conservation the majority of the se watercourses are at a significant distance from the designated site and, as a result, there is no likelihood for significant impacts. As no in-stream works are proposed, there is unlikely to be any significant impacts on any designated nature conservation sites. As impacts will be negligible and localised it is highly unlikely that any significant impacts will be experienced beyond the proposed development site boundary.

8.2.33. As the nature of the proposed transmission is functionally inert no construction phase impacts are anticipated.

8.2.34. Other than standard mitigation measures as set out in Annex 4 of the EIAR no further mitigation measures other than standard best practice construction measures are required.

8.2.35. Based on the information contained within the EIAR I am satisfied with these conclusions in relation to Water.

Air & Climate

8.2.36. The proposed development will make a significant contribution to Ireland's renewable energy generation targets and the abatement of greenhouse gas emissions. Thus,

the proposed development will have a significant positive impact long term in terms of air and climate.

8.2.37. There may be limited local impacts in terms of dust and vehicle emissions during the construction phase. However, these will generally be confined to within the site boundaries. The potential for cumulative impacts with other existing, permitted or proposed development is negligible.

8.2.38. The operation phase of the proposed development will result in a permanent positive impact.

8.2.39. Based on the information contained in the EIAR I am satisfied with these conclusions.

Landscape

8.2.40. The impact on Landscape is addressed in Section 4.6 of the EIAR.

8.2.41. Impacts during the construction phase will be limited to the visual presence of road works, associated signage and machinery and its effect on visual amenity together with the visual impact of the overhead line during the operation phase.

8.2.42. It is considered that poles and wirescape are features typical of the Irish rural landscape. Having regard to the flat topography of the area it is considered that the visual impact of the proposed poles and wirescape will dissipate into the landscape within a short distance of the poles etc.

8.2.43. Based on the information contained in the EIAR I am satisfied with the conclusions in relation to visual impact and Landscape.

Cultural Heritage

8.2.44. The impact of the proposed development in terms of Cultural Heritage has been addressed in Section 4.7 of the EIAR.

8.2.45. It has been pointed out that the majority of the proposed underground line has been assessed previously in terms of the Environmental Impact Assessment carried out by the Board (on foot of the Environmental Impact Statement submitted by the applicant) in respect of the Cloghran Wind Farm development permitted by the Board (Appeal No. 19.244053). However, due to the slight modification to the grid connection route now being proposed the entirety of the grid connection route has been analysed in

terms of its impact on Cultural Heritage (Annex 5 of the EIAR). The main potential impact of the proposed development relates to archaeology.

- 8.2.46. There are no recorded archaeological sites within the site boundary or within 100m of the site boundary. The possibility that remains may be unearthed during the construction phase cannot be ruled out. However, based on desktop, site walkover and windshield surveys it is concluded that this is unlikely to happen.
- 8.2.47. The EIAR concludes that the proposed development will have no direct, indirect, residual or cumulative impacts with any existing, permitted or proposed development on any archaeological, architectural or cultural heritage site.
- 8.2.48. The principle mitigation measure proposed consists of archaeological monitoring during the construction phase.
- 8.2.49. Based on the information contained within the EIAR I am satisfied with the conclusions in relation to the impact in terms of Cultural Heritage.

Noise & Vibration

- 8.2.50. Noise and Vibration are addressed in Section 4.8 of the EIAR.
- 8.2.51. It is pointed out that the potential for noise impacts arising from the proposed development have been addressed previously in the EIA accompanying the permitted Wind Farm development (Appeal No. 19.244053) at Cloghran.
- 8.2.52. Impacts in terms of noise and vibration during the construction phase may arise in the context of stripping overburden, excavation of trenches, drilling in localised area and from the operation of plant and machinery.
- 8.2.53. Subject to mitigation measures outlined in the EIAR it is stated that noise and vibration levels will be below nuisance levels.
- 8.2.54. As the proposed development has no moving or operational parts no nuisance arising from noise or vibration is anticipated during the operational phase.
- 8.2.55. Based on the information contained within the EIAR I am satisfied with the conclusions in relation to the impact in terms of Noise and Vibration.

Radiation

- 8.2.56. The proposed development will result in no electromagnetic emissions.

8.2.57. The EIAR concludes that the proposed development is unlikely to result in any radiation impacts either in its own right or cumulatively with permitted or proposed development including the permitted Cloghran and Meenwaun Wind Farms.

8.2.58. Based on the information contained within the EIAR I am satisfied with the conclusions in relation to the impact of the proposed development in relation to Radiation.

Shadow Flicker

8.2.59. The construction of the proposed transmission line will not give rise to shadow flicker.

8.2.60. The proposed development will facilitate the operation of the permitted Cloghran Wind Farm. Thus, the cumulative impact of the proposed development together with the permitted Cloghran Wind Farm may give rise to Shadow Flicker. However, the impact of the Cloghran Wind Farm in terms of shadow flicker has previously been addressed in the EIA submitted to the Board in the context of the Wind farm development. Subject to the comments below in relation to 'Cumulative Impact' I consider that the matter of shadow flicker has been adequately addressed in the submitted EIAR.

Material Assets

8.2.61. Material Assets are addressed in Section 4.11.1 of the EIAR. These are addressed under the sub-headings of (i) Transport & Access (ii) Telecommunications & Services and (iii) Agriculture.

8.2.62. In relation to Transport and Access, the EIAR states that 5.7 km of the proposed route will be undergrounded along the N62, R439 and L70152. It is stated that 3.9 km will be located under the carriageway of the N62. However, this figure has subsequently been revised to 3.3 km in further information submitted to the planning authority.

8.2.63. The EIAR states that during construction works, appropriate traffic management measures will be implemented to maintain traffic flows, ensure significant disruption does not occur and to ensure the safety of construction personnel and road users.

8.2.64. The underground road works will require the installation of a trench 1m deep and 0.6m wide with joint bays and communication bays provided approx. every 750m. All works will be confined to the carriageway of public roads and will not be located within any roadside verges. Where possible the wheel bearing strip of roads will be avoided in order to allow backfilled aggregates to settle following trench reinstatement.

- 8.2.65. A substantial portion of the underground route has been assessed in respect of the Cloghran Wind Farm development permitted by the Board (Appeal No. 19.244053).
- 8.2.66. The construction of the overhead line is entirely on private lands and will have no impact on the road network, traffic flows or accessibility.
- 8.2.67. The EIAR states that following reinstatement of the carriageway the Proposed underground route will have no direct impact on transportation and access. Public roads will be reinstated in accordance with the specifications of and to the satisfaction of Offaly County Council (and Transport Infrastructure Ireland (TII) where appropriate). Any future maintenance works are unlikely to extend beyond a single day in duration and therefore, significant impacts arising from maintenance are assessed as unlikely.
- 8.2.68. Turbine and aggregate delivery routes will be via the N62.
- 8.2.69. Based on the information contained with the EIAR I am satisfied with the conclusions of the EIAR in relation to the environmental impacts of the proposed development in terms of Transport and Access. However, it must be highlighted that such a conclusion is predicated on the statement contained in the EIAR that during the operation phase **‘public roads will be reinstated in accordance with the specifications of and to the satisfaction of Offaly County Council (and TII where appropriate).** *[my emphasis]*. As set out at Section 7 below and as indicated in reports on file from TII and Offaly County Council Roads Design Section and in the planning authority reason for refusal of the proposed development the development, as proposed, does not comply with requirements in terms of its impact on the N62 (leading to differential settlement following reinstatement). I note that the concerns of TII do not, strictly speaking, relate to environmental concerns but rather relate to the safety, capacity and operational efficiency of the national road.
- 8.2.70. In relation to the impact of the proposed development on Telecommunications & Services the EIAR states that the route of the proposed cable has been designed to ensure appropriate separation distances to existing services are maintained. The construction and installation of the proposed grid connection is not likely to have any significant impact on existing telecommunications or services. Appropriate construction methodologies will be employed where the proposed works are near to existing services. Cumulative impacts with other permitted and existing development is not likely to arise. In terms of mitigation, the developer will undertake additional

surveys to ensure that there have been no changes to the location of services since the original survey.

- 8.2.71. In relation to impact on Agriculture the EIAR states that the underground line will not result in any likely significant effects on agriculture. The route of the overhead line runs through private agricultural land. Temporary disruption to agriculture may occur during the erection of pole sets. However, widespread removal of vegetation or significant ground disturbance will not be required. All disturbed vegetation will be reinstated. There will be no likely impact on agriculture during the operational phase.
- 8.2.72. Other than in respect of the comments at Section 7.2.64 above in respect of the impact of the proposed development on the N62, based on the information contained within the EIAR I am satisfied with the conclusions in relation to the environmental impacts of the proposed development on material assets.

Interactions of the Foregoing

- 8.2.73. Section 4.12 of the EIAR describes and provides an analysis of the interactions between the various other impacts and potential impacts under each of the EIAR headings. Table 2 of the EIAR sets out a matrix (weighted) of interactions and cross interactions between the various EIAR headings.
- 8.2.74. Based on a combination of mitigation measures at design, construction and operation stage the EIAR concludes that all of the potential impacts individually and in terms of their interaction together will give rise to environmental impacts that will be temporary, negligible, immaterial and imperceptible.
- 8.2.75. Based on the information contained in the EIAR I am satisfied with the conclusions contained within the EIAR in respect of Interactions between the various categories of impacts as set out in the EIAR.

Cumulative Impacts

- 8.2.76. The EIAR concludes under each heading relating to potential impacts on the environment of the proposed development that, subject to mitigation measures outlined in relation to each heading, the proposed development will have limited environmental impacts and that such impacts where they arise will typically be temporary, negligible, immaterial and imperceptible and will occur only during the construction phase. This conclusion also relates to the cumulative environmental

impacts when taken in conjunction with existing and permitted development in the vicinity of the site including the Cloghan Wind Farm and the existing Meenwaun Wind Farm and its associated grid connection.

8.2.77. Based on the information contained in the EIAR I am satisfied with the conclusions contained within the EIAR in respect of the cumulative impacts of the proposed development in conjunction with existing and permitted development in the vicinity of the site including the permitted Cloghan Wind Farm and the existing Meenwaun Wind Farm and associated grid connection.

Reasoned Conclusion

8.2.78. Having regard to the examination of environmental information contained above, to the EIAR and supplementary information provided by the applicant and the submissions received, the contents of which I have noted, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows.

- Short term and limited negative impacts on **human health and population** due to noise and dust disturbance. The impacts will be mitigated by reason of their limited duration and use of dust suppression measures.
- Positive long term socio-economic impacts.
- Short term negative visual impact on the **landscape**. No specific mitigation measures are proposed. However, the visual impact of the over ground wirescape should dissipate with time as human perception of the wirescape dissipates with time.
- No specific deterioration in habitat or on **biodiversity** anticipated during the construction phase and no impact during the operational phase. No specific mitigation measures proposed.
- Negative **Noise and Dust** impacts arise during the construction phase from construction activities. These impacts will be mitigated through adherence to best practice construction measures.
- Negative short term impacts in terms of **transport & access** due to disruption to traffic flows during the construction phase of the underground grid connection (beneath the N62 and other local roads). These impacts will be

mitigated by traffic management measures to minimise disruption to traffic flows and protect the safety of construction workers and other road users. No impact is predicted following construction of the grid connection and during the operation phase of the Wind Farm. Construction of the overhead section of the grid connection will have no impact.

- 8.2.79. Based on the above, I am satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment.
- 8.2.80. I consider, that this reasoned conclusion is in keeping with the decision of the Board (dated 27th, October 2016) to grant planning permission for the Cloghan Wind Farm (Appeal No. 19.244053). An Environmental Impact Statement (EIS) and Supplementary Environmental Impact Statement accompanied the Cloghran Wind Farm planning application. The Board Order in respect of this development indicated that the Board had conducted an EIA and concluded that the effects of the proposed development on the environment would be acceptable, by itself and cumulatively with other development in the vicinity, including other wind farms and the proposed grid connection alternatives, subject to the mitigation measures proposed etc. Furthermore, in coming to this conclusion, the Board was satisfied that the impact of the proposed development in terms of its impact on visual amenity and in terms of its impact in terms of wind take.
- 8.2.81. I consider that this reasoned conclusion does not conflict with the conclusions reached by the Board in relation to the environmental impacts of the proposed Wind Farm and grid connection route alternatives in the context of the Environmental Impact Assessment conducted by the Board for the Cloghan Wind Farm notwithstanding the comments at Section 8.2.69 above in relation to the impact of the proposed grid connection route on **material assets**. In this regard, I consider that the conclusions reached at Section 8.2.69 relate to impacts in terms of traffic safety, carrying capacity and the operational efficiency of the material asset (road) rather than purely environmental impacts.

8.3. **(3) Appropriate Assessment Screening**

- 8.3.1. An Appropriate Assessment Screening Report in respect of the proposed development (Grid Route) has been submitted with the current application (Appendix 4 of the EIAR Document). This report is a copy of the same report that was originally submitted to the Board in late 2015 as an 'Appropriate Assessment Screening Addendum Report' to the Cloghran Wind Farm development (Appeal No. 19. 244053). The latter report had been requested by the Board to address the specific matter of the proposed grid connection route (options).
- 8.3.2. The Appropriate Assessment Screening Report identifies 23 Natura 2000 sites located within 15 km of the grid connection route (as listed at Section 5.3.1 above).
- 8.3.3. An evaluation of the impacts of the proposed development on all 23 of these sites has been provided in Table No. 1 of the Appropriate Assessment Screening. The potential impact of 19 of these 23 designated sites are 'screened out' for reasons relating to (i) impact deemed to be insignificant due to distance from the grid connection route, (ii) distance and the absence of any hydrological/ecological pathways – no potential impact having regard to the qualifying interest of the site. No further assessment is provided in relation to these sites.
- 8.3.4. Having regard to the nature of the qualifying interest, the distance and/or lack of hydrological or ecological pathways between these sites and the current grid connection route being proposed I agree with the findings contained in Table 1 of the Appropriate Assessment Screening document and consider that these 19 sites can be 'screened out'.
- 8.3.5. Further consideration has been provided in relation to the '*Little Brosna Callows SPA (004086)*' due to the presence of hydrological pathways; the '*River Shannon Callows cSAC (000216)*' due to the fact that the proposed development is within the surface water catchment area of the SAC and would involve crossing tributaries of the River Shannon that flow into the SAC; the '*Middle Shannon Callows SPA (004096)*' due to the fact that the Site overlaps with the River Shannon Callows SAC within the study area – potential for indirect impacts; the '*Dovegrove Callows SPA (004137)*' due to potential impacts arising from disturbance along the route.
- 8.3.6. Table 2 of the Appropriate Assessment Screening identifies 4 watercourses that cross the proposed grid connection route and, therefore, may lead to potential impacts on

the latter mentioned Natura 2000 sites (downstream of the proposed grid connection route). These are Derrinlough Stream, Derrymullin Stream, Rapemills River and the Woodfield Stream.

8.3.7. The Appropriate Assessment Screening submitted by the applicant highlights the fact that there are no direct effects on any of the designated sites as the footprint of the proposed development is not located within or adjacent to any Natura 2000 sites.

8.3.8. The '*Little Brosna Callows SPA (004086)*' is located c. 3km from the proposed grid connection route. It is located along the lower reaches of the River Brosna to its confluence with the River Shannon. The SPA is internationally important for wintering waterfowl and is also recognised as being important for breeding waders. The main habitat is the extensive area of low-lying callow grassland in the floodplain of the river. The grasslands are subject to prolonged flooding in winter, early spring and occasionally in summer. The southern component of the grid connection route crosses the Woodfield Stream which flows into the River Little Brosna. The SPA is located downstream of a watercourse that could be negatively impacted by the proposed development so there is potential for indirect impact on birds in the callows. The potential indirect impacts arising from the proposed development occurs primarily via water quality related impacts (potential deterioration of habitats used by birds for feeding). The Appropriate Assessment Screening submitted by the applicant highlights the fact that the potential for indirect impacts (transferring deleterious material) on the SPA are not considered to be significant taking into account the fact that any watercourse crossed by the grid connection (i.e. the Woodfield Stream) has limited carrying capacity due to its low gradient and small size, the distance of the pathway and due to the fact that any works will be carried out in accordance with best practices thereby minimising the mobilisation of silt and other pollutants to watercourses. Based on this analysis which I consider to be robust, I consider that the proposed development would not be likely to have a significant effect on the SPA.

8.3.9. The '*River Shannon Callows cSAC (000216)*' consists of seasonally flooded semi-natural, lowland wet grassland along and beside the river. At its closest point the cSAC is c. 4.8 km from the route of the proposed grid connection. However, the separation distance by river channel is c. 15 rkm away (via the Little River – Brosna). Two Annex I habitats are represented within the cSAC. The site is also designated for otter an Annex II designated species. The potential for indirect impacts again arise primarily

via water quality related impacts of conservation interest. The lower reaches of the Rapemills River could potentially be impacted by deleterious material entering watercourses (the Rapemills River is within the River Shannon Callows cSAC). However, the connecting watercourse has limited carrying capacity due to its low gradients and small size. The River Shannon Callows cSAC is located c. 16.7 downstream of the Woodfield Stream. Taking into consideration the separation distance between the Woodfield Stream and the cSAC and the considerable dilution provided by the stream the Appropriate Assessment Screening concludes that potential for impact on this designated site is insignificant. Based on this analysis which I consider to be robust, I consider that the proposed development would not be likely to have a significant effect on the cSAC.

8.3.10. The Middle Shannon Callows SPA (004096) has extensive area of callows, or seasonally flooded, semi-natural, lowland wet grassland along both sides of the river. The callows provide optimum feeding grounds for various species of waterfowl, both wintering and breeding, while many of the birds also roost or rest in the area. The site qualifies as a site of International Importance for wintering wildfowl and for the Whooper Swan population. Small number of Greenland White-fronted Geese (Listed on Annex I of the EU Birds Directive) use the site. The latter are generally associated with the larger flocks which occur on the adjacent Little Brosna Callows and River Suck Callows. The Appropriate Assessment Screening submitted by the applicant suggests that the most important species which occurs in the site is the Corncrake. The SPA shares a boundary with the River Shannon Callows cSAC. The proposed grid connection development is located upstream of the SPA and the watercourses identified in relation to the River Shannon Callows cSAC (Rapemills River and Woodfield Stream) (Section 7.2.10 above) also have the potential to transfer pollutants to the SPA for similar reasons to those already addressed in relation to the cSAC. Once again, due to the small size and low gradient of the drains affected it is not likely to have the potential for conveying significant water pollution downstream. Any potential impact arising from these watercourse connections (identified as being 'weak' connections in the Appropriate Assessment Screening submitted by the applicant) will be further reduced by the distances involved in the pathway connections and the considerable dilution that will occur along the pathways. Based on this analysis which

I consider to be robust, I consider that the proposed development would not be likely to have a significant effect on the SPA.

8.3.11. The 'Dovegrove Callows SPA (004137)' is located c. 0.5km southwest of the southern end of the proposed grid connection route. This route crosses the Woodfield Stream which flows through the SPA so a pathway for pollutants exists. The site is used by a flock of internationally important (Little Brosna) Greenland White-fronted Geese. The site is used on an occasional basis when other feeding sites along the Little Brosna Callows SPA (and Middle Shannon Callows SPA) are flooded. The Little Brosna Callows is located to the west of the Dovegrove Callows SPA (therefore, construction of the proposed grid connection will not impact on flight paths). The Appropriate Assessment Screening submitted by the applicant acknowledges that the site is particularly important as it can support the entire Little Brosna flock. Nonetheless, the Appropriate Assessment Screening submitted by the applicant concludes that it is unlikely that significant pollution could be conveyed to the site at a level that would affect the conservation interest of the site even in a worst-case scenario. Furthermore, it is concluded that given the 0.5 km separation distance it is unlikely that any disturbance at a level that would affect wintering birds that occasionally use the site would occur. Based on this analysis which I consider to be robust, I consider that the proposed development would not be likely to have a significant effect on the SPA.

8.3.12. Section 3.4.3 of the Appropriate Assessment Screening submitted by the applicant addresses the potential cumulative impacts of the proposed development in conjunction with other plans and projects. This section identifies that permitted Cloghan Wind Farm (Appeal No. 19.244053) as the main other project likely to generate cumulative impacts. The wind farm has been identified as having some potential for causing water quality impacts during the construction phase. The Little River (Shannon tributary) runs through the wind farm site. However, the Appropriate Assessment Screening highlights that that this river is very low gradient. The Ecological Impact Assessment and Natura Impact Assessment prepared in respect of the wind farm both identified that water quality impacts arising from the wind farm development would not be significant due to the significant distance of the Little River upstream from the River Shannon and the low gradient of the river. The Appropriate Assessment Screening submitted by the applicant concludes that the proposed grid connection has even less potential to affect downstream water quality. In my opinion,

having regard to the separation distances involved, the conclusion that the closest Natura 2000 sites will be fully protected from impacts arising from the proposed grid connection either individually or cumulative in combination with other plans and projects is well supported.

8.3.13. In light of the above analysis, I consider that having regard to the nature and scale of development proposed and to the nature of the receiving environment, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.3.14. Finally, I note that the Board in considering the application for the proposed Cloghan Wind Farm (Appeal No. 19.244053) deemed that the potential for direct and indirect impacts of the proposed wind farm development could not be 'screened out' in respect of 7 Natura 2000 sites. The Board required that a Natura Impact Statement and Stage 2 Appropriate Assessment be conducted in relation to these 7 sites, namely:

- The River Shannon Callows Special Area of Conservation (SAC)(Site Code 000216),
- Middle Shannon Callows Special Protection Area (Site Code 004096),
- All Saints Bog Special Protection Area (Site Code 004103),
- Dovegrove Callows Special Protection Area (Site Code 004137),
- River Little Brosna Callows Special Protection Area (Site Code 004086),
- River Suck Callows Special Protection Area (Site Code 004097) and
- Mongan Bog Special Protection Area (Site Code 004107),

6 out of the 7 sites identified above are Special Protection Areas. I note that concerns identified in the Planning Inspector's report in relation to these sites (and prompting the requirement for Stage 2 Appropriate Assessment) related to potential for bird collisions with wind turbines. This issue does not arise in the context of the current grid connection proposal. In the case of the remaining (seventh) site (the River Shannon Callows Special Area of Conservation) concerns prompting the requirement for a Stage 2 Appropriate Assessment centred on an alternative grid connection route (i.e the 'Lumcloon' route alternative – one of 2 possible grid connection routes being

proposed for the Cloghan Wind Farm) and not on matters relating to the grid connection route being proposed in the current planning application. Thus, I see no conflict or inconsistency in respect of the conclusion at Section 8.3.13 above in relation to Appropriate Assessment Screening and the Boards previous decision in relation to the requirement for Stage 2 Appropriate Assessment (and the need for a Natura Impact Assessment) in respect of the Cloghan Wind Farm development.

9.0 Recommendation

- 9.1.1. Having regard to the foregoing assessment, I consider that based on the information submitted, the applicant has not satisfactorily demonstrated details of measures to be taken to adequately prevent differential settlement, following re-instatement, of the 3.3 km section of the N 62 beneath which the proposed grid connection will be routed. In these circumstances, on the basis of the documentation on file and accompanying the planning application and appeal, I consider that the Board cannot be satisfied that differential settlement along the N 62, national secondary route (which carries significant volumes of traffic including fully laden trucks and other heavy goods vehicles) will not occur giving rise to serious concerns in relation to traffic safety, carrying capacity and the operational efficiency of this road. Accordingly, I recommend that planning permission for the proposed development be refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations

It is Council Policy STAP -17 of the Offaly County Development Plan 2014-2020 to protect the safety, capacity and efficiency of National Roads and associated junctions. On the basis of the documentation submitted with the current application and appeal the Board is not satisfied that the applicant has sufficiently demonstrated that the proposed development will not have an adverse impact on the safety, capacity or operational efficiency on the National Roads Network in the vicinity of the subject site, given the risks of differential settlement along National; Road N62. It is therefore considered that the proposed development would materially contravene Policy STAP-17 as it would adversely impact on the capacity and efficiency of National roads, and therefore would be contrary to the proper planning and sustainable development of the area.

Paddy Keogh
Planning Inspector

2nd, April 2020