An Bord Pleanála

Inspector's Report ABP308419-20

Development	Erection of 3 Wind Turbines.
Location	Altcor and Meenagranoge, Inver, County Donegal.
Planning Authority	Donegal County Council.
Planning Authority Reg. Ref.	20 51028.
Applicants	Huntstown Windfarm Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party.
Appellants	Huntstown Windfarm Limited.
Observers	None.
Date of Site Inspection	22nd January, 2021.
Inspector	Paul Caprani.

Contents

1.0 Introduction

1.1. ABP308419-20 relates to a first party appeal against the decision of Donegal County Council to issue notification to refuse planning permission for a small windfarm development comprising of 3 turbines in an upland area in the vicinity of Killin Hill in south-west Donegal. Donegal County Council issued notification to refuse planning permission for a single reason on the basis that, on foot of a successful High Court challenge relating to Wind Energy Policies in the Donegal County Development Plan (2018-2024), there exists a lacuna in wind energy policy for the County and the Planning Authority is not in a position to adequately assess wind energy proposals in this context. No observations have been submitted in respect of the proposal. An EIAR and NIS have been submitted with the application.

2.0 Site Location and Description

2.1. The proposed 3 turbine windfarm is located in the townlands of Altcor and Meenagranoge, an upland area approximately 12.5 kilometres (as the crow flies) north-west of Donegal Town. The site is located approximately 6 kilometres due north of the village of Inver on the N56 and approximately 4½ kilometres north-west of the small village of Frosses to the south-east of the subject site. The site is located approximately 2.5 kilometres from the R262 a regional route linking the N56 west of Mountcharles to the N56 between Ardara and Glenties. A local third-class road linking Ardara and Inver runs in a north-south direction approximately 500 metres to the west of the subject site.

2.2. The site itself is irregularly shaped and occupies an area of approximately 21 hectares (52 acres). It is located on the lower southern and western slopes of Killin Hill between the 170 and 250 metre contour line. Killin Hill forms the south-westernmost edge of the Blue Stack Mountains to the north-east. Binbane which rises to 453 metres in height is located approximately 3 kilometres to the north-east of the subject site. The site comprises of two distinct areas which are traversed by a local track which links the local road c.500 metres to the west of the site with the R262 c.2 km to the north-east. Lands on the northern side of the track are to accommodate one turbine (Turbine No. 3). This site comprises of blanket peat with some rock outcrops. Part of this site has already been disturbed in the vicinity of the

access track. This disturbance is likely to be attributed to the works which have been carried out on the existing windfarm in the vicinity of the site. A small unnamed stream runs along the northern boundary of the proposed turbine foundation westwards into Lough Namanfin c.500 metres to the west. This lake discharges into the Corker River further west, which in turn discharges into the Oily River to the south-west and onward into Donegal Bay.

2.3. An existing turbine associated with the Killin Hill Windfarm (also consisting of 3 turbines), (see Planning History below) is located approximately 470 metres to the south-east of the subject site.

2.4. To the south-east of the access road, there is a large stand of Coillte owned conifer trees located on the southern slopes of Killin Hill. It is proposed to fell the trees in question and erect two more turbines (Turbines 1 and 2). There are two existing turbines in the townland of Altcor directly to the south of the conifer woodland approximately 400 metres to the south of the proposed turbines.

2.5. The area surrounding the site is characterised by blanket bog with parcels of land within this blanket bog planted with conifer forests. The site is also used for low intensity agricultural pastureland primarily associated with sheep. A number of third-class roads surround the site which accommodate dispersed linear settlement. The area is characterised by low density settlement. The nearest resident to the proposed turbines is 425 metres away. The landowner of this dwelling is the stakeholder in the proposed development. The nearest non-stakeholder is c.945 metres from the subject site.

2.6. There are no Natura 2000 sites within the site boundary. The nearest Natura 2000 site are the Lough Nillan Bog SPA is located c.1 to 1.3 kilometres to the north and includes Tamur Lough. According to the information contained in the EIAR there are no monuments or other features of cultural heritage on the site or within its immediate vicinity.

3.0 **Proposed Development**

3.1. Planning permission is sought for the construction of 3 wind turbines on the subject site. Two turbines are to be located to the south-east of the access track traversing the site (Turbines Nos 1 and 2) within the existing woodland. Whereas Turbine No. 3

is to be located in the north-western portion of the site. According to the EIAR, the proposed turbines are of a typical modern design incorporating steel tubular towers with three blades attached to the nacelle (containing the generator and other operating equipment).

3.2. The turbines have a hub height of 69 metres and a top blade height of 110 metres. A transformer will be located within the bottom tower section in order to control voltage requirements. It is intended to paint the turbine an off-white or light-grey colour. The towers of the turbines will be fixed to concrete foundations. The base will have diameter of approximately 19.1 metres and a depth of 3.25 metres to the underside of the foundation. The volume of concrete needed for each turbine base is estimated to be 646 m^3. Each turbine base will also comprise of approximately 52.6 tonnes of reinforced steel bar. In the centre of the foundation base will be a plinth some 8.8 metres in diameter. The turbines will be bolted to this plinth.

3.3. The proposed windfarm will share the same access route as the nearby operational Killin Hill Windfarm. Additional site tracks will be necessary to allow access for cranes and delivery trucks to the construction of the turbine foundation sites. It is considered that blasting will not be required during the construction phase due to the nature of the underlying bedrock in the general vicinity of the proposed development. Track excavators and rock breakers should be sufficient to break up the rock for subsequent removal to facilitate construction works. The expected volume of material comprising of bedrock and overburden to be excavated is estimated to be approximately 3,390 cubic metres for the foundations of the three turbines. It is proposed that crushed stone fill material required for construction of hardstanding areas and new access roads to the turbines will be sourced from material generated during the excavation of the turbine foundations and from a borrow pit which is located adjacent to Turbine T1.

3.4. Drainage and layout including proposed sediment control are presented in Drawings (17.1145_3.005 to 17.1145_3.010). The underlying geology of the site is a critical factor in the final determination of the detailed turbine locations and requires site specific geotechnical investigations in order to identify the optimum location for each turbine. These investigations may result in some minor amendments to the turbine location, but this should not generally extend beyond 20 metres. All electrical and communication cablings will be run underground in PVC ducts alongside site tracks.

As two of the proposed turbines are to be located within a stand of Sitka Spruce trees, it is estimated that approximately 7.3 hectares of forestry will be removed and felled to accommodate the infrastructure.

3.5. The proposed windfarm will be connected directly via an electrical connection to the nearby Killin Hill 38 kV *substation,* and this will involve an extension to the substation and ducting approximately 1.2 kilometres in length.

During the duration of the construction stage, a temporary compound will be required to house site offices, toilets, canteen facilities, parking, fuel storage tanks etc. The construction compound will be approximately 600 square metres in size covered in stone and will be located adjacent to Turbine No. 3 in the north-western portion of the site.

4.0 Planning Authority's Decision

4.1. **Decision**

Donegal County Council issued notification to refuse planning permission for a single reason which is set out in full below.

"A recent successful High Court action challenging the nature of the Wind Energy Policies adopted as part of the County Development Plan 2018 – 2024 has resulted in the removal of significant parts of the Wind Energy Policies from the Plan. Although the Council has committed to resolving this situation through the initiation of a variation to the County Development Plan in 2019, in the interim it is meant that there are deficiencies within the Wind Energy Policy Framework to enable the Planning Authority to carry out proper decision making on wind energy development proposals. Therefore, having regard to the extent of the lacuna in wind energy policy, the Planning Authority considers that it is not in a position assess wind energy proposals given the dearth in current development plan policy and national guidelines on the matter. Therefore, in the context of the current wind energy policy lacuna, the impending publication of the new Wind Energy Guidelines by the Department of Housing, Planning and Local Government, and the initiation of a wind

energy variation to the County Development Plan 2018 – 2024, the Planning Authority considers that it would be premature and contrary to the proper planning and sustainable development to permit the current windfarm development proposal.

4.2. **Local Authority Assessment**

Documentation Submitted with Planning Application

The application was accompanied by the following:

- A covering letter/ Planning Statement which sets out the background to the proposed development, the proposed site, the planning context pertaining to the development and the rationale behind the proposed development. It argues that the proposed development is in accordance with the proper planning and sustainable development of the area, compliant with development plan policy, will generate additional clean electricity, will have an acceptable environmental impact, will not adversely affect residential amenities in the area and will utilise existing grid connection infrastructure.
- Also submitted are a number of letters of consent from landowners, this includes a letter from Coillte.
- The application was also accompanied by planning application form, fee and associated drawings.
- An Environmental Impact Assessment Report (3 volumes),
- A screening for appropriate assessment report and a Natura Impact Statement.

Internal and External Reports Prepared in Respect of the Application

- A submission from the Department of Culture, Heritage and the Gaeltacht makes comments in relation to archaeology. It states that due to the scale of the proposed development, it is recommended that monitoring be carried out across the entire site. Details of the nature of archaeological monitoring is set out in the report.

- A report from the Chief Fire Officer stated that there is no objection to the proposal.
- A submission from An Taisce states that there is an onus on Donegal County Council to determine that this proposal will not have an adverse cumulative impact with the existing Killin Hill Windfarm development.
- A third-party observation from a landowner in the area states that the location of the proposed turbines "*will find it difficult to meet the distance specification from other landowners*".
- A report from Transport Infrastructure Ireland makes a number of comments in relation to national road network maintenance and safety. The contents of Appendix 7.11A of the EIAR confirms that the route can accommodate the transportation of the infrastructure along the N56. In the case that any works are required to the national road or associated junctions, such works shall comply with TII publications and will be the subject of a Road Safety Audit as appropriate. It is also stated that an abnormal load assessment should be undertaken to assess any impact from abnormal weight loads where the weight falls outside the limits permitted under the Road Traffic Regulations 2003. TII have no specific observations to make in relation to the cabling/trenching elements of the proposal.

Planning Report

The planner's report sets out details of the proposed development and notes the various prescribed bodies comments made in respect of the application. Details of the planning history and the policy context relating to the proposed development are set out in the report.

The absence of wind energy policies and objectives in the County Development Plan are noted. However, the report makes reference to the importance of renewable energy as a policy platform generally in national, regional and local policy. In this regard reference is made to:

- The National and Regional Wind Energy Policy.
- The Wind Energy Development Guidelines for Planning Authorities (2006).
- The National Climate Change Adaptation Framework.
- The Climate Action Plan.
- The Draft Revised Wind Energy Development Guidelines.
- The Regional Spatial and Economic Strategy prepared by the North-West Regional Authority.

Having regard to the above policy documents, it is considered that the principle of the development is acceptable. However, due to the lacuna of wind energy policy in the Donegal Development Plan pending a material variation of the said Plan, to include the updated Wind Energy Development Guidelines, the development is considered to be premature, and a refusal is recommended.

The planner's report goes on to assess the EIAR. It notes that the Planning Authority has concerns regarding the cumulative impact of existing and proposed turbine development on dwellings Nos. 19 and 65 as annotated in the submitted application. In the biodiversity section it is noted that some of the figures are incorrectly annotated. It is noted that potential NHAs are not mentioned in the NIS and the Planning Authority considers this to be a significant gap in information for the purposes of assessment. It is noted that the location and detail of the proposed settlement ponds are not shown on the site layout plans which accompany the application.

In relation to land and soils, it is stated that should permission be forthcoming, it is considered that a condition should be imposed to submit final detailed plans for the construction methodology of the access road between Turbines 1 and 2 prior to the commencement of the development. The Planning Authority concurs with the remainder of the findings.

Details of any silting ponds to be included as a method of mitigation for surface water run-off sedimentation are not detailed. The Planning Authority generally agrees with the findings contained in the EIAR in respect of cultural heritage, air, climate, material assets and radiation.

In relation to the traffic assessment, it is stated that the possibility of using local quarries for the importation of stone for the construction of the turbines has not been factored into the traffic assessment.

The Planning Authority have concerns in relation to the apparent inconsistencies detailed within the EIAR and therefore the Planning Authority is not in a position to fully assess all interactions until further information becomes available and anomalies are clarified.

In relation to Appropriate Assessment, the planner's report concludes that it has not been determined that the proposed development either individually or cumulatively will not impact on the Meenybradden Bog pNHA and the proposal is therefore contrary to Policy NH-P1 of the County Development Plan.

On the basis of the above, the planner's report recommended that planning permission be refused for two reasons. The first reason related to the lacuna in planning policy in the development plan and the second reason related to the potential impact of the proposal on the Meenybradden Bog pNHA on the basis that a significant impact cannot be excluded notwithstanding the mitigation measures set forward in the NIS.

This latter reason was not included in the Planning Authority's decision.

5.0 **Planning History**

5.1. Details of the planning history are set out in the local authority planning report and also in Section 3.8 of the EIAR (page 74). The relevant planning history is set out below.

5.2. In relation to the subject site, a planning application for three turbines was submitted in 2018 (PL18/51842). This application was withdrawn by the applicant due to a proposed wind energy policy variation in the County Development Plan. The EIAR indicates that the current application is very similar to that withdrawn.

5.3. Two other relevant applications include 06/21459 (An Bord Pleanála Ref. PL05.226845) where planning permission was granted for three wind turbines with a 64 metre hub height and a 71 metre rotor diameter together with access trackways and a 38 kV station. The Board upheld the decision of Donegal County Council to grant planning permission on foot of a third-party appeal. Details of this file are attached.

5.4. Under Reg. Ref. 14/51305 Donegal County Council issued notification to refuse planning permission for seven wind turbines, new internal access tracks, underground cables and an electrical substation in the townlands of Clogheravaddy, Meenagranoge and Meenachan approximately 1.5 kilometres to the north-east of the subject site. Donegal County Council issued notification to refuse planning permission for four reasons relating to visual impact, impact on fauna and biodiversity, potential risk due to peat slippage and concerns in relation to the proposed haul route for the turbine components. This decision was the subject of a first party appeal (PL 05E 244417) and the Board in its decision overruled the recommendation of the planning inspector and recommended a grant of planning permission. The Board's decision was dated 19/2/2016. Details of this file are also attached.

5.5. The EIAR also makes reference to other applications for windfarms in the wider area. Many of these applications were deemed to be incomplete by the Planning Authority or were withdrawn by the applicants.

6.0 **Grounds of Appeal**

6.1. The first section of the appeal sets out the background to the proposed development, the site location and description, the planning history, and the policy context as it relates to the site. Section 2 sets out details of the grounds of appeal.

6.2. In relation to the Planning Authority's single reason for refusal it is stated that there are currently a large range of wind energy policies, guidelines and objectives at local, regional and national level that provide a strong basis which allow for the assessment of wind energy developments. Many of these are outlined in Chapter 3 of the EIAR submitted.

6.3. Furthermore, notwithstanding the decision of the High Court in respect of windfarm policy in Donegal, it is contended that Donegal County Council has a wide-ranging set of policies, objectives and specific development management standards in relation to wind energy development. The High Court case referred to (*Planree Limited versus Donegal County Council Ref. [2018/533JR*]) has resulted in the removal of Map 8.2.1 of the Development Plan and a requirement in respect of the separation distance between turbine height and setback. It is respectfully contended that the removal of these elements has not resulted in any material deficiency in the Plan or has resulted in any lacuna of wind energy policy.

6.4. It is noted that a number of planning authorities such as Sligo and Leitrim County Council do not have any wind energy policy maps, and this has not precluded the either Planning Authority from making a decision on windfarm developments.

6.5. While the Council have been required to omit setback distances in the development plan there are nevertheless a number of extant policies and guidelines in both the local development plan and national guidelines which aim to protect the amenities in the vicinity. Reference is made to the Wing Energy Guidelines 2006 and the Draft Revised Wind Energy Guidelines of 2019.

6.6. Reference is made to a precedent where on the 25th May, 2020 An Bord Pleanála granted planning permission for the Momeen and Lettergull Windfarm (ABP 304685-19) for a six turbine windfarm development in Donegal. Reference is made to various statements contained in the Inspector's Report where it is noted that there was a presumption in favour of renewable energy projects and therefore there is sufficient

guidance policy available to determine the suitability of the proposed development. It is suggested that this precedent decision by the Board is equally applicable to the subject application.

6.7. The grounds of appeal go on to assess the local authority planner's report.

6.8. It is acknowledged that there are a number of mistakes in the annotated figures contained in the EIAR and these are corrected in the grounds of appeal.

6.9. While the planner's report noted that there are some concerns with regard to the proximity of Turbine No. 3 to the public roadway, in response reference is made to Section 5.8 of the Wind Energy Development Guidelines which note that overtime turbines become part of the landscape and in general do not cause any significant distraction to motorists. It is noted that there are no specific setback distances from roads in the Draft Revised Windfarm Development Guidelines. Reference is also made to various statements contained in the landscape and visual impact assessment submitted with the EIAR.

6.10. With regard to noise and vibration, it is stated that a detailed noise assessment was submitted with the EIAR. It is noted that in this noise assessment, the more onerous ETSU-R-97 Assessment Criteria was used. The assessment using the guidance of ETSU-R-97 indicates that all properties other than Houses 12, 13, 14, 19 and 65 will experience cumulative noise impacts of less than 40dB(A) during daytime and night-time. The owners of Houses 12, 13 and 14 are project stakeholders and as such an increased fixing limit of 45dB(A) for both daytime and night-time periods are appropriate. It is important to note that House Nos. 19 and 65 are not impacted by the proposed development and were included in the assessment as they fall within the windfarm study area. The noise levels of House Nos. 19 and 65 are not as a result of the proposed development but as a consequence of their proximity to existing turbines. House No. 19 has a significant setback distance of 1.1 kilometre whereas House No. 65 has a setback distance of 1.9 kilometres to the proposed turbines. It should also be noted that noise exceedances can be adequately controlled and mitigated by the curtailment of turbine operation (turbine shutdown) if the Board are required.

6.11. With regard to biodiversity these issues are dealt with in Appendix B of the submission (a separate report by Doherty Environmental Consultants Limited). This

separate report provides correct figure numbers for the biodiversity chapter of the EIAR. The submission also assesses proposed Natural Heritage Areas and assesses the potential impacts of the wind farm on the Meenybradden Bog pNHA. The submission also provides further details in relation to settlement ponds and the impacts on the freshwater pearl mussel. It is stated that the potential impact on this pNHA was addressed in the biodiversity chapter of the EIAR. It was not addressed in the NIS as it is not designated as a European site. Similarly, concerns expressed by the Planning Authority in relation to the assessment of the Red Grouse is not contained in the NIS as Red Grouse is not a species of special conservation interests in any SPA occurring within the wider area. Further details are also provided in relation to bird survey hours and the mitigation measures contained in the NIS. It is not accepted that the mitigation measures are generic and not site specific as suggested in the planner's report. The mitigation measures set out in the NIS and in the EIAR are established methods which are proven to be effective at minimising potential adverse impacts.

6.12. With regard to land, soils and water, the queries set out in the planner's report are addressed in a separate report prepared by Minerex Environment. It provides further details with regard to construction methodologies in respect in relation to the laying of floating roads and the detailed treatment of watercourses and drainage within the site. Detailed mitigation measures for the protection of watercourses are also set out in the response.

6.13. With regard to traffic concerns, the response states that it is intended to source local stone for construction from the on-site borrow pit as detailed in the application drawings and also from local quarries. A detailed traffic management plan will be provided and agreed with the local authority in advance of any construction work. It is respectfully suggested that this issue can be dealt with by way of condition.

6.14. The grounds of appeal then go on to note the various comments made by prescribed bodies. It states that the observations from the Department of Culture, Heritage and the Gaeltacht and the Irish Aviation Authority can be addressed by way of condition.

6.15. With regard to the An Taisce concerns it is stated that cumulative impacts have been adequately assessed in both the EIAR and NIS submitted.

6.16. The grounds of appeal also respond to the third-party observation submitted and it is stated that the turbines are positioned a minimum of 150 metres from site boundaries and the proposed rotor length is up to 41 metres. This fully complies with the Wind Energy Development Guidelines of 2006 which states that a distance of not less than two rotor blades from adjoining property boundaries will generally be acceptable. The same stipulation is also contained in the Draft Revised Wind Energy Development Guidelines 2019. In this instance the proposed turbines are sited 210 metres from the third-party observer's boundary which is in excess of four rotor blades from the third party boundaries. In conclusion therefore the proposed development is in compliance with the guidance and best practice.

7.0 **Appeal Responses**

7.1. Donegal Co. Council submitted the following response to the grounds of appeal.

7.2. Notwithstanding the grounds of appeal, the decision to refuse permission remains the current position of the Planning Authority. It is anticipated that a variation to the County Development Plan will be carried out when the National Guidelines for Wind Energy are published following public consultation. On this basis it is considered that the proposal is premature as planning policy is not in place to determine the application.

7.3. The grounds of appeal also raise a number of responses to issues that were raised during the assessment of the application. As these issues did not form a reason for refusal the Planning Authority is not in a position to respond specifically to each of them. It must be noted however that there are a large number of anomalies in the text as submitted that made a thorough assessment of the application onerous. The Planning Authority would reiterate its position that clarity is needed as to the details relating to issues concerning construction and surface water discharge for the purposes of screening for appropriate assessment. Should the Board be minded to grant planning permission, it is suggested that further information is necessary on these matters.

8.0 **Policy Context**

8.1. **European Policy**

Renewable Energy Directive 2018/2001/EU

This Directive promotes the use of energy from renewable sources and establishes a new binding renewable energy target for the EU of at least 32% in 2030, which is up from the 20% target set in the 2008 Directive. By the end of 2019, member states were required to submit a ten-year National Energy & Climate Plan (NECPs) for the 2021 to 2030 period, outlining how they will meet the new 2030 targets for renewable energy and energy efficiency.

The Paris Agreement, 2015

Superseding the 2005 Kyoto Protocol, this agreement within the United Nations Framework Convention on Climate Change (UNFCCC), addresses greenhouse gas emissions mitigation, adaptation and finance starting in the year 2020, which aims to keep the global average temperature rise this century to below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius.

8.2. **National Policy**

Project Ireland 2040 – National Planning Framework

The National Planning Framework (NPF) is the Government's high-level strategic plan shaping the future growth and development of Ireland to the year 2040 and is underpinned by the National Development Plan 2018-2027. Chapter 3 of the Framework addresses 'effective regional development' and includes the following policy priorities for the subject Northern and Western region:

- 'harnessing the potential of the region in renewable energy terms across the technological spectrum from wind and solar to biomass and wave energy'.

Under the heading ‘Planning and Investment to Support Rural Job Creation’, the following is stated within the NPF with regards to energy production:

- ‘rural areas have significantly contributed to the energy needs of the country and will continue to do so, having a strong role to play in securing a sustainable renewable energy supply. In planning Ireland’s future energy landscape and in transitioning to a low-carbon economy, the ability to diversify and adapt to new energy technologies is essential. Innovative and novel renewable solutions have been delivered in rural areas over the last number of years, particularly from solar, wind and biomass energy sources’.

National Policy Objective (NPO) 55 seeks to ‘*promote renewable energy generation at appropriate locations within the built and natural environment to meet objectives towards a low carbon economy by 2050’.* The pretext to this NPO states that ‘development of the Wind Energy Guidelines and the Renewable Electricity Development Plan will also facilitate informed decision making in relation to onshore renewable energy infrastructure’.

National Strategic Outcome 8 informing the ‘transition to sustainable energy’ states that:

- ‘new energy systems and transmission grids will be necessary for a more distributed, more renewables focused energy generation system, harnessing both the considerable on-shore and off-shore potential from energy sources such as wind, wave and solar and connecting the richest sources of that energy’.
- It also seeks to deliver 40% of our energy needs from renewable sources by 2020 with a strategic aim to increase renewable deployment in line with EU targets and national policy objectives out to 2030 and beyond.

<u>National Energy and Climate Plan (NECP) 2021-2030</u>

This first draft of the NECP takes into account energy and climate policies developed to date, the levels of demographic and economic growth identified in the NPF and includes all of the climate and energy measures set out in the National Development Plan 2018-2027.

Climate Action Plan 2019

The Climate Action Plan 2019 seeks to realise a 30% reduction in greenhouse gas emissions and increase reliance on renewables from 30% to 70%, thereby adding 12GW of renewable energy capacity by 2030, whilst also phasing out reliance on fossil fuels. This Action Plan sets out a major programme of change in order to achieve a net zero carbon energy system objective for Ireland, while also reflecting Ireland's commitment to achieving 2030 sustainable development goals. According to the Plan, increasing onshore and offshore wind capacity are the most economical options for electricity production based on the marginal abatement cost curve. To meet the required level of emissions reduction by 2030, Ireland will need up to 8.2GW in total of increased onshore wind capacity. Under the action item 'Regulatory Streamlining of Renewables and Grid Development', the Plan identifies the publishing of updated planning guidelines for onshore wind in 2019. In terms of land use, the Action Plan outlines that the management of land affects how much carbon is emitted to or removed from the atmosphere.

Wind Energy Development Guidelines (2006)

The Wind Energy Development Guidelines 2006 provide statutory guidance for wind energy development, including consideration of environmental issues, such as noise and shadow flicker, design, siting, spatial extent and scale, cumulative effect and spacing, as well as the layout and height of wind turbines having regard to the landscape and other sensitivities. The Guidelines indicate the need for a plan-led approach to wind energy development.

In December 2013, the Minister for Housing and Planning announced a public consultation process with respect to a focused review of the 2006 Guidelines and a 'preferred draft approach' to the review was announced in June 2017.

Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017)

These interim guidelines were issued under Section 28 of the Planning and Development Act 2000, as amended. They do not currently replace or amend the Wind Energy Development Guidelines 2006, which remain in place pending the completion of ongoing review. Section 28 of the Act requires both planning

authorities and An Bord Pleanála to have regard to these interim guidelines and apply any specific planning policy requirements of the interim guidelines in the performance of their functions.

The interim guidelines provide specific guidance on making, reviewing, varying and amending the wind energy policies or objectives of a Development Plan or a Local Area Plan. A planning authority shall acknowledge and document specific national strategy relating to energy policy, indicate how the implementation of a Development Plan or a Local Area Plan over its effective period would contribute to realising overall national targets on renewable energy and climate change mitigation. Furthermore, the planning authority is required to demonstrate detailed compliance with the above in any proposal in a Development Plan or a Local Area Plan to introduce or vary a mandatory setback distance or distances for wind turbines from specified land uses or classes of land use. This approach is reaffirmed in the Departmental Circular PL5/2017.

Draft Wind Energy Development Guidelines 2019

The current Departmental approach is to address a number of key aspects of the 2006 Guidelines, including sound or noise, visual amenity setback, shadow flicker, consultation obligations, community dividend and grid connections. Consultation on the draft Guidelines ended in February 2020.

The draft guidelines identify Specific Planning Policy Requirements (SPPR), and subject to formal adoption of the Guidelines, it is intended that these SPPRs would be applied by planning authorities and An Bord Pleanála in the performance of their functions, as well as having regard to additional matters for consideration in assessing wind energy developments. Notable changes in the draft guidelines when compared with the 2006 wind energy guidelines relate to community engagement, noise limits and minimum separation distances.

8.3. **Regional Policy**

Regional Spatial & Economic Strategy for the Northern and Western Regional Assembly

The Regional Spatial and Economic Strategy (RSES) provides a 12-year high-level development framework for the Northern and Western Region that supports the implementation of the National Planning Framework (NPF) and the relevant economic policies and objectives of Government. The Strategy recognises the success of the region in the provision of renewable energy from hydropower and onshore wind energy, with wind turbines a new feature in the region's landscapes.

8.4. **Local Policy**

Donegal County Development Plan 2018-2024

Section 8.2 of the Development Plan outlines the aim for energy development in the County, involving the facilitation of development comprising a diverse energy portfolio, including wind and other energy sources. A host of objectives and policies supporting the development of wind energy projects in the County and aimed at controlling the locations and impacts of wind energy developments are also listed within section 8.2 of the Development Plan.

Development Guidelines

Development guidelines and technical standards for wind energy developments are outlined in section 6 of Part B to Appendix 3 of the Plan, which lists additional locations where wind energy projects must not be located, including '(c) areas identified as locations where wind farm development would not be acceptable, as identified on map 8.2.1 of the Plan' and '(f) areas within a setback distance of ten times the tip height of proposed turbines from residential properties and other centres of human habitation'. A centre of human habitation is defined in the Plan to include schools, hospitals, churches, residential buildings or buildings used for public assembly.

On Foot of a High Court Order (Record Number 2018/533JR between Planree Limited and Donegal County Council) dated 5th November 2018 certain provisions of the Development Plan, comprising section 6.5(c) and (f) of the

Wind Energy standards at Part B: Appendix 3 'Development Guidelines and Technical Standards' and Map 8.2.1, were ordered to be deleted and/or removed from the Development Plan. The Development Plan is to be read in light of this Order pending any possible future variation of same and the planning authority intends preparing a variation to the Development Plan regarding wind energy.

Landscape Designation

Section 7.1 of the Plan categorises the landscape of the County into three areas, as illustrated in Map 7.1.1 of the Plan, including areas of 'Especially High Scenic Amenity' (EHSA), 'High Scenic Amenity' (HSA) and 'Moderate Scenic Amenity' (MSA), none of which are considered to be of low landscape value. The entirety of the appeal site is covered by the 'Moderate Scenic Amenity' designation.

Policy E-P-2 It is a policy of the Council seeks to facilitate the appropriate development of renewable energy from a variety of sources, including, hydro power, ocean energy, bioenergy, solar, wind and geo-thermal and the storage of water as a renewable kinetic energy resource, in accordance with all relevant material considerations and the proper planning and sustainable development of the area.

Policy E-P-10 states it is the policy of the Council that development proposals for wind energy shall be in accordance with the requirements of the Wind Energy Development Guidelines – Guidelines for Planning Authorities 2006 (or as maybe amended).

Policy E-P-14 states that it is the policy of the Council to support voluntary initiatives from developers/renewable energy operators for community benefits, in accordance with other policies of this plan and the proper planning and sustainable development of the area.

Policy E-P-16 states it is the policy of the Council to support the strengthening and enhancement of the capacity of existing wind farms, within the local environmental capacity including the sustainable upgrade/replacement of older turbines with newer more efficient models.

Policy E-P-20 states that it is the policy of the Council that proposals for renewable energy development will have regard to the cumulative effect of the development on

the environment when considered in conjunction with other existing and permitted developments in the area.

Policy E-P-21 states that it is the policy of the Council that all applications for renewable energy projects will ensure that details of the proposed grid connection and all associated infrastructure, are considered in any Environmental Impact Statement and Natura Impact Statement as maybe required.

9.0 **Planning Assessment**

I have read all documentation on file including all the information contained in the EIAR and the NIS submitted with the application. I have visited the subject site and its surroundings and have had particular regard to the issues cited in the Planning Authority's reason for refusal and the applicant's rebuttal. The planning authority also raised some concerns in relation to the integrity of the information contained in the EIAR and the NIS, although this did not form the basis for a reason for refusal. However, in the interest of providing a comprehensive assessment, I propose to address these issues raised by the planning authority below. I therefore consider the critical issues in determining the current application and appeal before the Board are as follows:

- Lacuna in Wind Energy Policy in the Donegal County Council Development Plan
- Impact on Noise Receptors
- Potential impacts on drainage and water attenuation measures.
- Traffic Issues
- AA Issues and Impacts on the Meenybradden Bog pNHA.

9.1. **Lacuna in Wind Energy Policy in the Donegal County Council Development Plan**

Donegal in its reason for refusal refers to a successful High Court action *JR Planree Limited -v- Donegal County Council [Ref. 2018/553]*. By order made on 5th November, 2018 certain provisions of the County Donegal Development Plan have been removed relating to wind energy. The reason for refusal states that this has resulted in significant parts of the wind energy policy being removed from the plan. These sections being:

- Section 6.5(c) and (f) of the Wind Energy Standards at Part B of the Plan.
- Map 8.2.1 of the Development Plan which identifies areas which were deemed to be suitable/unsuitable for wind energy developments.

On this basis, it is argued that there in a lacuna in energy policy and therefore it is premature to determine any application in the absence of a policy.

In relation to this issue, I would note the following:

Part B, Appendix 3 of the development plan sets out development guidelines and technical standards in relation to various types of development. Section 6 specifically relates to wind energy.

Section 6.5 of Part B, Appendix 3 subsection (c) refers to areas identified as locations where a wind farm would not be acceptable or identified in Map 8.2.1, (Chapter 8 of the County Development Plan 2018 – 2024). Subsection (f) requires a setback distance of 10 times the tip of the proposed turbines from residential properties and other centres of human habitation.

For the purposes of clarity these two sections have now been removed from the development plan. In relation to this matter, I would agree with the arguments set out in the grounds of appeal that (a) that the principle of wind farm development on the in this area has already been established in An Bord Pleanála's decision under two separate grants of planning permission for wind farm developments in the immediate vicinity. As referred to in the planning history section above, The Killin Hill wind farm

(3 turbines) was granted permission PL05. 226845 and planning permission was granted under PL05E. 244417 for 7 turbines c. 1 km to the north east of the site Clogheravaddy. The Killin Hill wind farm is operational, and the Clogheravaddy wind farm is under construction. In landscape terms I consider that the principle of wind farm development has already been established and that the proposal constitutes an 'infill development' which will read as being part of the overall wind farm development in visual terms.

The principle of wind farm development at this location has therefore been established. Thus, the Board have already determined that the principle of a wind farm in this area is acceptable and the precedent decisions at this location can in my view assist in informing the Board as to the acceptability or otherwise of a new wind farm at this location.

Furthermore, as the appellant points out in the grounds of appeal, there is a comprehensive range of guidance and policy objectives on a national, regional and local level in relation to wind energy developments and therefore, while certain aspects of the development plan in terms of wind energy policy have been deleted and removed, this does not imply that there is a complete and vacuum or lacuna in policy which precludes the Board from determining the application before it. I refer the Board to the previous section in the report which sets out details of the various policy frameworks in which the proposed development can be assessed. In this regard I would make reference to the extensive European policy including:

- The Renewable Energy Directive and the Paris Agreement.
- Extensive national policy set out in the National Planning Framework, the National Energy and Climate Plan, The Wind Energy Development Guidelines, The Interim Guidelines for Planning Authorities on Renewable Energy and Climate Change and The Draft Wind Energy Development Guidelines.

All these documents highlight the importance of supporting policies for facilitating renewable development, reducing reliance on fossil fuel and addressing climate

change. These documents would therefore support the provision and expansion of renewable energy infrastructure such as wind farms.

On the absence of certain details and guidelines in respect of local development plan policy, there still are numerous policy objectives and statements remaining in the Donegal Development Plan which would support in more general terms, the provision of wind energy developments. In this regard reference is made to Policy E-P-2 where it is the policy of the Council to facilitate the appropriate development of renewable energy from a variety of sources including hydropower, ocean energy, bioenergy, solar, **wind** (my emphasis) and geothermal and the storage of water as a renewable kinetic energy resource, in accordance with all relevant material considerations in the proper planning and sustainable development of the area.
Policy E-P-10 states it is the policy of the Council that development proposals for wind energy shall be in accordance with the requirements of the Wind Energy Development Guidelines – Guidelines for Planning Authorities 2006 (or as maybe amended).
Policy E-P-14 states that it is the policy of the Council to support voluntary initiatives from developers/renewable energy operators for community benefits, in accordance with other policies of this plan and the proper planning and sustainable development of the area.
Policy E-P-20 states that it is the policy of the Council that proposals for renewable energy development will have regard to the cumulative effect of the development on the environment when considered in conjunction with other existing and permitted developments in the area. In this regard I refer the Board to the EIAR submitted with the application which adequately in my view assesses the potential cumulative impacts which could arise from the proposal (see separate section below).
Policy E-P-21 states that it is the policy of the Council that all applications for renewable energy projects will ensure that details of the proposed grid connection and all associated infrastructure, are considered in any Environmental Impact Statement and Natura Impact Statement as maybe required. Again, I refer the Board

to the EIAR and NIS submitted with the application which, in my considered opinion adequately addresses these issues.

On the basis of the above, I consider that there is an abundance of policy documentation which can assist in informing the Board as to whether or not the proposed development is acceptable and in accordance with the proper planning and sustainable development of the area notwithstanding the order made under Ref. 218/533 JR in the High Court in November, 2018.

I would also reiterate, that there are precedent decisions in the immediate vicinity of the site which should assist the Board in determining as to whether the principal development is acceptable or not in the immediate landscape.

I would also refer the Board to the judicial review proceedings taken by Element Power versus An Bord Pleanála 2016/920 JR [IEHC550]. Under this application (Reg. Ref. 09 PA0041) An Bord Pleanála issued notification to refuse planning permission for a wind farm straddling the border of Kildare County Council and Meath County Council for three separate reasons; the first of which referred to the absence of any Wind Energy Strategy with a spatial dimension or wind and energy strategy at local levels for Kildare and County Meath. In its judgement the Court held that there was no provision within the Planning and Development Act 2000 which empowered the Board to reject the proposed development on the basis that it would be premature pending the adoption of National/or Local Strategies. The Courts therefore ruled that there was no such policy vacuum at national or local level to preclude the Board from granting planning permission and that this was not a relevant consideration and not a valid reason for refusing permission. This judgement in my view is directly relevant to the case currently before the Board.

Finally, in relation to this matter I would refer the Board to precedent decisions made under Reg. Ref. ABP304685-19 and ABP 305163. The initial application related to the provision of six wind turbines with a tip height of 135 metres located approximately 5 kilometres north-east of Raphoe, Co Donegal. As in the case of the current application, the first reason for refusal issued by Donegal County Council

made reference to the supposed existing lacuna in wind energy policy contained in the development plan on foot of the recent High Court Judgement. The Board in its decision, and on foot of the inspector's recommendation, overturned the decision of the Planning Authority and granted planning permission for the proposed development in July 2020. The Board in issuing this determination has in my opinion accepted the fact that there is a sufficient policy framework in existence to enable it to determine a wind farm application in the County.

The second application and appeal related to ABP 305163 where a first party appeal was lodged against the decision of Donegal County Council to issue notification to refuse planning permission for a 7-turbine wind farm on lands to the south of the subject site in the townlands of Behy, Cashelard, Tullyhork and Doobally outside Ballyshannon in County Donegal. Donegal County Council refused planning permission for four reasons on of which related to the Planning Authority's inability to assess wind energy proposals in the absence of adopted policy in the development plan.

The Board upheld the decision of the planning authority but for a single reason relating to biodiversity issues (specifically in the potential impact of the wind farm on the hen harrier) and not relating to any issues regarding to the absence or lacuna in development plan policy.

On the basis of the above assessment and the fact that (a) the Board have already established that the lands in the immediate vicinity of the subject site are suitable for a wind farm development having regard to precedent decisions, (b) the presence of national and local guidelines, (c) the High Court judgement in the case of JR – Element Power Ireland Limited v An Bord Pleanála and (d) the precedent decisions under PL05E.304685 and ABP-305163, neither of which upheld Donegal Co. Council's decision to refuse permission on the basis of gaps or lacuna in planning policy, I consider that the Board is not precluded or restricted from granting planning

permission for the proposed development on the basis that there is a lacuna in wind farm policy relating to the site or in the county as a whole.

9.2. **Impact on Noise Receptors**

Although not specifically referred in the reason for refusal, the planning authority report did express some concerns regarding the noise assessment in the EIAR. I have read and assessed the noise section of the EIAR, and I am generally satisfied that the potential noise impacts have been adequately identified, described and assessed in the document. Concerns were expressed by the planning authority that cumulative impact from the existing and proposed wind farms could impact on the amenity of house no. 19 and 65 in the vicinity of the site, as annotated in Figure 3.3 of the set of maps accompanying the main volume.

The applicant however points out in the appeal, that house numbers 19 and 65 (both non-stakeholders) are impacted upon because of their proximity to existing turbines which have the benefit of planning permission. Ambient noise levels are therefore determined by extant windfarms. House number 65 is just less than 1 km form the most northerly turbine of the Clogheravaddy wind farm whereas it is located c. 1.9 kilometers from turbine no. 3 in the current application. Having regard to the separation distances between the nearest proposed turbine and the house in question, I would agree with the applicant that the proposed turbines will not give rise to any material impacts on noise levels on a cumulative basis.

With regard to house no.19, this dwelling is located to the south of the subject site approximately 1.1 km from the most southerly turbine, (turbine no.1). There are two turbines associated with the Killin wind farm, between the proposed turbine No. 1 and the house in question. The EIAR reasonably concludes in my opinion that residual noise level can be attributed to the proximity of the existing turbines and that an additional turbine over a 1 km away is unlikely to give rise to any significant cumulative impact. I'm satisfied therefore that any cumulative impact arising from the proposed development in respect of house no.’s 19 and 65 would be negligible.

9.3. **Traffic Impacts**

The planning authority have raised concerns that stone from local quarries may be used in the construction of the foundations of the turbines, and this has not been factored into the traffic impact assessment. It is my considered opinion that any stone derived from local quarries will be unlikely to have a significant adverse impact in terms of traffic. I based this conclusion on the fact that the local roads in the vicinity of the site I lightly trafficked and do not experience any significant congestion. Furthermore, any impact arising from construction traffic will be temporary in nature and impacts can be mitigated through a construction traffic management plan. If the Board have any concerns in this regard, it would be appropriate to request further information on this matter. To refuse planning permission and such grounds would be disproportionate in the extreme.

9.4. **Water Issues**

The planning authority report notes that silting ponds are to be used as a method of mitigation. However, details of the number and location of these ponds have not been indicated in the information submitted. As in the case of the traffic assessment I consider that this is a relatively minor issue that could be appropriately addressed by way of condition. If the Board have any concerns in respect of surface water management proposals, it could in my view request further information in relation to same. To refuse planning permission purely on the grounds on the basis that details of the number and location of silting ponds have not been provided would again in my opinion be disproportionate. Such matters can be adequately dealt with in a Construction and Environmental Management Plan.

Concerns are also expressed that Lough Namanfin is to act as a natural hydrological buffer, in the event of a significant discharge of silt or sedimentation to a watercourse. The EIAR biodiversity chapter recognizes that increased run-off and sedimentation has the potential to impact on water courses (see 7.4.7.2 of EIAR),

and without appropriate mitigation measures, it is acknowledged that aquatic habitats and aquatic fauna could be adversely affect. To this end a series of mitigation measures are set out in in Water Section of the EIAR which will, if implemented, address the planning authority's concerns. These mitigation measures include:

- tapered drains filled with hardcore to entrap sediment,
- bunding to protect against spillages,
- siltation and settlement ponds,
- the incorporation of 50m buffer zones between works and watercourses.

Properly implemented and monitored mitigation would be effective in protecting the habitats of Lough Namanfin and the Meenybradden Bog pNHA. The Board should also note that the surveys undertaken did not reveal any evidence of the Fresh Water Pearl Mussel in the Meenagranoge Stream between the site and Lough Namanfin or within the Lough itself.

9.5. **Land and Soils**

Notwithstanding the information contained in the applicant's response to the grounds of appeal, including the supplementary report submitted by Minerex outlining further details in construction techniques and mitigation measures to be employed, I note that the planners report essentially expressed satisfaction with this section of the EIAR. It merely states that should permission be forthcoming, it is considered that a condition be imposed to submit final detailed plans for construction methodology for the access road between turbines nos. 1 and 2 prior to the commencement of development. I consider that this specific issues along with other construction issues can be adequately addressed in a Construction and Environmental Management Plan.

9.6. **Third Party Concerns**

One observation on file expressed concerns that the proposed turbines did not comply with required separation distances from boundaries. While the current National Wind Farm Guidelines are under review, the applicant has adequately demonstrated that the proposal fully accords with current guidelines with regard to separation distances between turbines and third-party boundaries.

10.0 **APROPRIATE ASSESSMENT**

10.1. **Appropriate Assessment: - Stage 1**

The Habitats Directive requires competent authorities to carry out a Screening for Appropriate Assessment of Plans and projects that, alone or in combination with other plans and projects that would be likely to have significant effects on European Sites (Natura 2000 Sites) in view of best scientific knowledge and the site's conservation objectives.

The Screening for appropriate assessment was undertaken with reference to guidance documents including:

- Appropriate Assessment of Plans or Projects in Ireland – Guidance for Planning Authorities (DEHLG)
- Assessment pf Plans and Projects Significantly Affecting Natural 2000 Sites - Methodological Guidance of the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. European Commission 2001
- Managing Natura 2000 Sites – The Provisions of Article 6 of the Habitats Directive 92/43/EEC. European Commission (2018)

In the appropriate assessment screening report submitted with the application, it is noted that there are 14 sites within a 15 km radius of the wind farm. There are no sites outside this 15 km zone that are hydrologically connected to the subject site. As the project is not located within or adjoining a Natura 2000 Site, there will be no potential for direct impacts to habitats. With the exception of bird species, the project's potential to affect Natura 2000 Sites is restricted to indirect impacts. The

potential of the proposal to impact on Natura 2000 sites within the zone of influence are outlined in the Table below. The criteria as to whether or not the proposed project could impact on the integrity of the European Sites are assessed in terms of hydrological impacts (pollution) in terms of noise (disturbance of species), mobility of species of conservation interest (the ability of mobile species of conservation interest to frequent the project site for foraging, breeding or nesting purposes etc.).

Natura 2000 Site (SAC's)	**Location**	**Potential Impacts/connections**	**Screen in?**
Lough Nillan Bog SAC	1 Km to N of site	No Hydrological or other connection with the site. No mobile species of qualifying interest that could frequent the site	No
Meenaguse/Ardbane Bog SAC	7 km to NE of the site	No Hydrological or other connection with the site. No mobile species of qualifying interest that could frequent the site	No
Meenguse Scragh SAC	10.5 Km NE of the site	No Hydrological or other connection with the site. No mobile species of qualifying interest that could frequent the site	No
Lough Eske & Ardnamona Wood SAC	13 Km W of the site	No Hydrological or other connection with the site. No mobile species of qualifying interest that could frequent the site. Atlantic Salmon are the only mobile species which are a qualifying interest of this SAC. However no hydrological connection exists.	No
Donegal Bay SAC	9 Km to the SE of the site	No Hydrological or other connection with the site. No mobile species of qualifying interest that could frequent the site. The Gray Seal is the only mobile species however it will not frequent the site.	No
Durnish Island SAC	14 km to the south	No Hydrological or other connection with the site. No mobile species of qualifying interest that could frequent the site.	No
St Johns Point SAC	12 Km to the south	No Hydrological or other connection with the site. While the subject site is located in the	No

		same catchment area of the subject site and drains into Donegal Bay, the Oily River discharges c3.5 km away form the nearest qualifying interest associated with St Johns Point SAC. No mobile species of qualifying interest that could frequent the site.	
Slieve Tooey/Tormore Island/Loughros Beg Bay SAC	12 km to the West	While there is no hydrological connection with the site, the otter is a qualifying interest and suitable otter foraging habitats occur in the Oily and the Bunalacky Rivers both of which are located within the catchment area of the subject site.	Yes
West of Ardara/Mass SAC	9 km to the North	While there is no hydrological connection with the site, the otter is a qualifying interest and suitable otter foraging habitats occur in the Oily and the Bunalacky Rivers both of which are located within the catchment area of the subject site.	Yes
Natura 2000 Site SPA's			
Lough Nillan Bog SPA	1 Km to the North	Having regard to the proximity of the site to this designated SPA and notwithstanding the fact that the Birds of SCI interest were not found to use the project site, based on the precautionary principle and the site proximity it is appropriate to screen this site in for the purpose of Stage 2 AA.	Yes
Donegal Bay SPA	9km to the south	While there are numerous birds listed in this SPA which are of SCI interest, either none of them forage in inland areas or the area in which the site is located does not provide suitable grassland foraging areas which would attract the SCI bird species in question.	No
Durnesh Lough SPA	14.5 km SE	Greenland white-fronted Geese and whooper swans are both SCI bird species that could potentially frequent the subject site.	Yes

West Donegal Coast SPA	15 km to the NW	The SPA accommodates SCI bird species associated with coastal and not inland areas.	No
Skeskinmore Lough SPA	13.5 km NW	Greenland white-fronted Geese (the only SCI bird species for which the site has been designated) could potentially frequent the subject site.	Yes

The screening report has in my opinion correctly identified The European Sites in the zone of influence of the project where qualifying interests and bird species of conservation interest could be potentially affected by the proposed development. 5 sites were identified:

- The Slieve Tooey/Tormore Island / Loughros Beg Bay SAC (Site Code 000190) which at its closest point is 10.4 km from the site.
- West of Ardara /Maas Road SAC (Site Code 000197) which at its closest point is c.10.6 km from the site.
- Lough Nillian Bog SPA (Site Code 004110) c.1.6 km to the north of the site
- Durnish Lough SPA which at its closest point is c. 14.5 km from the subject site (Site Code 004145).
- Skeskinmore Lough SPA. (Site code 004090) which at its closest is 14.3 km to the north of the site.

The AA screening assessment concluded that the proposed development could potentially impact on otter habitats during the construction phase and could potentially impact on bird species of special conservation interest primarily by way of collision during the operational phase.

10.2. **Appropriate Assessment – Stage 2**

The qualifying interests and species of conservation interest associated with each of the Natura 2000 Sites identified as being potentially affected by the proposal are set out below:

The Slieve Tooey/Tormore Island / Loughros Beg Bay SAC (Site Code 000190)

Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]

Embryonic shifting dunes [2110]

Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]

Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]

Decalcified fixed dunes with Empetrum nigrum [2140]

Atlantic decalcified fixed dunes (Calluno-Ulicetea) [2150]

Alpine and Boreal heaths [4060]

Blanket bogs (if active bog) [7130]*

Vertigo angustior (Narrow-mouthed Whorl Snail) [1014]

Lutra lutra (Otter) [1355]

Halichoerus grypus (Grey Seal) [1364]

The project site is located a sufficient distance from the habitats of the Slieve Tooey / Tormore Island / Loughros Beg Bay SAC to ensure that the habitats will be unaffected as a result of the project. The Whorl Snail is sedentary whereas the Grey Seal is confined to maritime coastal areas. Thus, neither species could potentially be affected. The only mobile species which could potentially be affected by the proposal is the otter. This species has a large foraging area and could potentially forage downstream of the subject site. Records for the occurrence of otters within the SAC indicate its presence close to the coast and along water courses associated with the Murlin, Owenteskiny and Owenwee Rivers.

West of Ardara /Maas Road SAC (Site Code 000197):

Estuaries [1130]

Mudflats and sandflats not covered by seawater at low tide [1140]

Large shallow inlets and bays [1160]

Annual vegetation of drift lines [1210]

Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]

Mediterranean salt meadows (Juncetalia maritimi) [1410]

Embryonic shifting dunes [2110]

Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]

Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]

Decalcified fixed dunes with Empetrum nigrum [2140]

Atlantic decalcified fixed dunes (Calluno-Ulicetea) [2150]

Dunes with Salix repens ssp. argentea (Salicion arenariae) [2170]

Humid dune slacks [2190]

Machairs (in Ireland) [21A0]*

Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]

Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]

Northern Atlantic wet heaths with Erica tetralix [4010]

European dry heaths [4030]

Alpine and Boreal heaths [4060]

Juniperus communis formations on heaths or calcareous grasslands [5130]

Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (important orchid sites) [6210]*

Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]

Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510]

Blanket bogs (if active bog) [7130]*

Depressions on peat substrates of the Rhynchosporion [7150]

Alkaline fens [7230]

Vertigo geyeri (Geyer's Whorl Snail) [1013]

Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]

Euphydryas aurinia (Marsh Fritillary) [1065]

Salmo salar (Salmon) [1106]

Lutra lutra (Otter) [1355]

Phoca vitulina (Harbour Seal) [1365]

Petalophyllum ralfsii (Petalwort) [1395]

Najas flexilis (Slender Naiad) [1833]

The project site is located a sufficient distance from the habitats of West of Adara/Maas SAC to ensure that the habitats will be unaffected as a result of the project. The Whorl Snail is a sedentary species, and the Marsh Fritillary Butterfly resides locally largely within the confines of the boundary of the SAC. Thus, neither species could potentially be affected by the proposal which is located over 10km from the subject site. With regard to the Freshwater Pearl Mussel (FWPM) this is likewise sedentary in nature and furthermore that project site is not hydrologically connected with the population of FWPM located in this SAC. Likewise, there are no pathways connecting the project site with Atlantic Salmon and the Harbour Seal. Furthermore, both these species are exclusively reliant on coastal and marine habitats. Thus, the only potential qualifying interest associated with the SAC that could potentially be impacted upon is the otter. This species has a large foraging area and could potentially forage downstream of the subject site. Records for the occurrence of otters within the SAC indicate its presence close to the coast and within the Loughs of the SAC.

Lough Nillan Bog SPA

Merlin (Falco columbarius) [A098]

Golden Plover (Pluvialis apricaria) [A140]

Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]

Dunlin (Calidris alpina schinzii) [A466]

All the above species could interact with the project site. The Lough Nillan Bog SPA supports an excellent range of bird species typical of peatland habitats, including one of the largest known concentration of breeding Golden Plovers in the country.

Durnesh Lough SPA

Whooper Swan (Cygnus cygnus) [A038]

Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]

Durnesh Lough is an important wintering and staging area for Whopper Swan. The site is also a regular feeding ground for Greenland White-Fronted Geese.

Skeskinmore Lough SPA

Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]

It comprises an intricate complex of coastal and freshwater habitats. The only species listed as a qualifying interest is the Greenland White-fronted Goose.

10.3. **Assessment of Potential Impacts to Qualifying Interests Associated with the European Sites**

Surveys Undertaken in the NIS

Details and intensive bird and otter surveys which were carried out over multiple years in the vicinity of the project site between 2017 and 2020 area set out in the NIS submitted. In relation to otters, the document states that there are no recent records for otters in the vicinity of the project site. It appears therefore that the otters do not rely on these freshwater habitats for foraging, nesting or breeding. No freshwater habitats are included in the otter commuting map which was prepared for both the The Slieve Tooey/Tormore Island / Loughros Beg Bay SAC and the West of Ardara /Maas Road SAC. The otter commuting map was limited to the coastal areas associated with both SAC's.

In terms of birds, a total of 30 species of breeding birds were recorded within the project site boundary and within the 500m buffer zone around the project site during the 2019 breeding season. However, the 2017 survey showed no incidence of breeding birds of special conservation interest in the vicinity of the site.

Potential Adverse Impacts Identified

The potential adverse impacts which could arise as a result of the proposal are identified In the NIS as:

- Decline in water quality downstream due to construction works which could impact on the habitat of the otter.
- Construction works have the potential introduce non-native invasive species. This could result in non-invasive species to surrounding waterbodies, particularly Lough Naminfin which would have the potential to undermine the foraging habits of the lake for otters.
- Risk of bird strikes/collision during the operational phase
- Displacement and loss of habitats to birds during both the construction and operational phase.

Otter

In relation to the otter and any deterioration in water quality, the NIS states that more recent reporting on the national conservation status of otters has stated that diffuse and point source polluting of freshwater and coastal water are likely to cause local impacts only and are not considered to have potential to undermine this species at national scale. In the case of the subject site and the Natura 2000 sites in the vicinity, it is noted that the proposal will not have the potential to impact on the extent of terrestrial or maritime habitat used by the otter, nor will it create barriers to connectivity between habitats. It is further noted that no holts sites have been identified in the wider vicinity of the subject site and therefore the proposal is not predicted to have any impact on this attribute. The proposal does have the potential to impact on water quality which could potentially result in the decline in the distribution of otters within these catchments. It could also restrict the extent of foraging habitat and freshwater habitat as well as impact on fish biomass through potential changes in trophic status of the freshwater bodies.

Bird Collisions

In terms of potential bird collisions, the NIS assessed each of the qualifying interests associated with the SPA. Based on various surveys undertaken the following was noted:

Golden Plover

- Overall a total of nine flight observations for Golden plover have been recorded in the vicinity of the site during all bird surveys between 2003 and 2017 none of these flight lines were within the project site. No Golden Plover were observed during 2017, 2019 and 2020 surveys. No breeding sites occur within 1 km of the site. It is considered that the project will present a low risk of collision or habitat displacement as no golden plover occur within the vicinity of the site. The project will not result in any loss of foraging habitat for breeding pairs and is not predicted to result in the decline in the productivity rate for golden plover.

Dunlin

- No observations of dunlin have been recorded during all bird surveys at and in the vicinity of the subject site. Thus, the probability of collision, displacement or loss of habitat is considered to be negligible.

Greenland White-fronted Goose

- Only one flight observation of the Greenland White-fronted Geese was recorded during all bird surveys at and in the vicinity of the project site (Oct 2010). Flocks of these species were recorded at Tamur Lough and at Lough Nillan Bog SPA and it is likely they commute back and forth between these two habitats, both of which are to the north of the site, and therefore this species is unlikely to fly through the site. In light of current scientific knowledge of the collision risks for geese, it is considered that the probability of Greenland white-fronted geese colliding with turbines is negligible.
- In terms of habitat displacement, the distance between the project site and the nearest recorded foraging area for Greenland white fronted geese is

approximately 800 meters and as such it is considered that the proposed wind farm will not have the potential to displace these species.

Whooper Swan

- With regard to the wintering Whooper Swan, based on various studies undertaken, it is concluded that the probability of Whooper Swans colliding with the turbines is negligible, as there is an absence of Whooper Swan flight activity in the vicinity of the site. With regard to displacement and loss of habitat, it is noted that low numbers of Whooper Swan have been recorded in the vicinity - the closest being 1.3 km from the proposed wind farm site. Surveys undertaken indicate that Whooper Swans do not rely on habitats in the vicinity of the subject site and therefore the wind farm development will not have the potential to result in negative displacement effects to this species.

Merlin

- With regards to Merlin, a total of three flights of an individual Merlin have been recorded within area in the vicinity of the wind farm during all bird surveys completed between 2003 and 2020. Results of baseline surveys at and in the vicinity of the project site indicates very low usage of the project site and the surrounding areas by Merlin. The absence of any evidence of breeding merlin at or in the wider area surrounding the project site, leads to the conclusion the probability of Merlin colliding with turbines at the project site and in the surrounding area is predicted to be negligible.
- With regard to displacement and loss of habitat, surveys carried out indicate but this species does not rely on the project site and the surrounding area as breeding or foraging territories and would not be displaced by construction activities or the operation of the wind turbines.

- The NIS assesses potential in-combination effects with other wind farms in the wider area. It is noted that there are 10 turbines located in the immediate vicinity

of the subject site and a total of 33 turbines within a 15 km radius off the subject site. Therefore, there is the potential for a cumulative collision risk, and this requires further assessment. Impacts could also arise from the felling of coniferous plantations and potential interaction between the windfarm and turbary activities. However, it is considered that there is no potential for cumulative impacts with agriculture on the basis of the low intensity agricultural activity in the surrounding area.

10.4. Mitigation Measures

Section 5.4 of the NIS sets out a series of mitigation measures to address the potential adverse impacts arising from the development for both the construction and operational phase. These include:

Construction Phase Mitigation

Mitigation measures for slope failure, peat slide and bog burst.

These measures include:

- A detailed contractors methodology statement to be approved by a qualified geotechnical engineer prior to site operations.
- Drainage management measures to effectively drain grounds in advance of access track construction.
- Catch ditches to strategically intercept any potential peat slides.
- The use of floating roads for peat depths in excess of 1.5m.
- The use of floating roads will be rigorously tested to ensure that the road is fit for purpose.
- Excavations which could have the potential to undermine the up-slope component of the peat slope, will be sufficiently supported to resist lateral slippage and careful attention will be given to the existing drainage and how the construction of the turbine could affect drainage.
- All peat excavated will be immediately removed from sloping sites.

- Any imported aggregates shall consist of a similar geochemistry to the local geology of the site.
- Wet periods will be avoided when scheduling significant excavation of peat substrates.
- The side slopes of all excavations will be paired back to approximately 45 degrees.
- Slopes will not be undercut, or excavations left unsupported for periods in excess of 24 hours.
- The hard standings surrounding the turbine bases must be designed in a manner so that crane loadings can be transferred directly after the competent strata underlying the peat.
- Extra vigilance will be maintained for peat slippage during severe rainstorm events particularly following a prolonged dry spell.
- All slopes will be regularly checked for the development of tension cracks which is indicative of slope movement.
- The supervision by suitably experienced geotechnical engineers will be provided during the construction of the turbines.
- The potential for peat slide will be monitored regularly by construction workers and suitably qualified professionals.
- Only experienced and competent contractors will be appointed to carry out construction works.
- No ground bearing pressure machinery shall be used for transport of construction materials in areas of undisturbed peat.
- Site staff will undergo detailed and comprehensive construction training.

<u>Mitigation measures to prevent the release of polluting substances,</u>

- A detailed Construction and Environmental Management Plan (CEMP) and Surface Water Management Plan (SWMP) will be developed in advance of construction activities. It will provide sufficient detail to ensure that all activities that could potentially lead to negative impacts on

surrounding water quality are identified particularly in relation to otters. The plans will be carried out by experienced hydrologists and hydrogeologists. It will set out measures to avoid siltation, erosion, surface water runoff and accidental pollution events in order to ensure that water quality is maintained. A contractor for the implementation of the CEMP and SWMP will be appointed.

- Water courses which receive flow from areas under the footprint of the construction area will be examined on a daily and weekly basis by the contractor, The NPWS and Inland Fisheries Ireland.
- Disturbance to natural drainage features will, as far as practically possible, be avoided during the construction phase of the project.
- All contaminated surface water will be diverted away from construction areas through the installation of interceptor drains upgradient of the construction site.
- Drainage waters originating in construction areas will be collected in a closed system and treated prior to controlled diffuse release.
- Drainage waters from construction areas would be managed through a series of treatment stages that will include swales, check dams and detention ponds along with other pollution control measures such as silt fences and silt mats.
- Detention ponds will be used to attenuate and treat runoff. Detention pond side slopes should be constructed at shallow grades.
- Site drains should not discharge directly into water courses.
- Erosion control and detention ponds will be regularly maintained during the construction phase.
- A detailed pre-construction peat stability assessment would also consider the location of detention ponds so that these facilities will not increase the risk of slope failure.
- Runoff from excavated areas shall not be pumped directly into water courses.

- Standing water from excavations would be pumped into the site drainage system for treatment.
- Areas stripped of earth and vegetation will be kept to a minimum. Aggregate should be imported rather than quarried on site.
- Sumps should be constructed to collect peat and silt runoff.
- In steep areas check dams may be constructed to reduce drainage flow rates.
- Oil and fuel will be stored within containment areas and emergency response measures for oil spillage on site will be prepared.
- Cement should be mixed within containment areas.
- Where necessary, consent to discharge under the terms of the Surface Water Regulations (2009) will be sought.
- A temporary consent for major earthworks or river crossings may be required for the construction phase of the project and any such requirements associated with such crossings will be strictly adhered to.
- Care will be taken to ensure that there is no disruption of groundwater flow paths to either springs, wells, or boreholes.
- Measures will be put in place for vehicles transporting materials so as the potential for emissions our spillage is minimised.
- All construction personnel will be trained in pollution control responses, this will include the preparation of an Emergency Response Plan.
- Any felling of conifer plantation will be undertaken in accordance with specifications and guidelines.

<u>Mitigation measures to avoid adverse effects to surface waters at drainage ditch crossings during the construction phase.</u>

- All works within 10 meters of water courses will only be carried out during the period May to September inclusive and at other times specified by in land fisheries Ireland.

- Aside from stream crossings, a 10m surface water buffer zone will apply in and around streams for all works.
- A floating hydrocarbon boom and spill kit will be employed in the event of a spillage.
- Trucks and plant machinery will travel slowly across the ground at a maximum speed of 5km/h.
- Silt fencing will be erected at a set-back distance of five meters from any reception or launch pits.
- No in stream works will be permitted.
- Any excess construction material shall be removed from the work area and disposed of in a fully licensed landfill.
- No refuelling of machinery will take place within 50m of any watercourse.
- Containment, settlement ponds and /or filtration methods will be used where necessary and will be put in place prior to the commencement of preparation works.
- Operation of machinery within the watercourse and use of machinery in the immediate vicinity of drains will be kept to a minimum to avoid any unnecessary disturbance.
- Splash plates will be placed at the outflow of pumps to ensure that scouring and suspension of fines settlements does not take place.
- Any watercourse crossing will be restored to its original configuration and stabilised to prevent bank erosion by means of timber stakes, timber planks or geotextiles as required.
- Clay bunds will be placed within the trench backfill to prevent the trench acting as a drain towards the watercourse both preventing potential downstream water quality impacts.
- Where feasible trenches will be excavated during dry periods and any spoil will be immediately removed and stored in a repository.
- Temporary silt traps will be placed in longer trench runs and on steeper ground.

- Swale slopes are to be correctly reinstated post infilling of cable trenches.
- The proposed grid connection cable trench will be backfilled reinstated and reseeded over areas of natural ground surface to reduce runoff.

Mitigation for Minimising Impacts of Forestry Clear-felling.

- Any methodologies employed for forestry clear-felling will be done in accordance with appropriate guidelines.
- Search traps will be installed at locations that will intercept runoff to the Bunalacky River.
- Inspection of silt traps will be logged.
- A water quality monitoring program will be established on key drainage discharge points leaving the site.
- Where elevated levels of suspended solids are encountered the temporary cessation of works will take place.
- Mitigation measures will be reviewed if required.

Construction Phase Mitigation Measures for Birds.

- Pre-construction and construction phase surveys will be completed at the project site. These surveys will aim to identify the presence of birds which are Species of Conservation Interest.
- All construction activity will be restricted to daylight hours to minimise disturbance to roosting birds and nocturnal birds.
- Subject to other environmental concerns, the removal of forestry will be undertaken outside the bird breeding season (March to August inclusive).
- The construction compound, substation and wind farm will not be lit at night. All lighting systems will be designed to minimise nuisance with appropriately cowled directional lighting.
- All putrescible waste will be stored and disposed of in an appropriate manner.
- The management of felled forestry areas during the construction phase will adhere to guidelines for reducing the suitability of such areas for raptor species such as Merlin, Hen Harrier etc.

Operational Phase

A separate set of mitigation measures are set out for the operational phase. These include:

Surface water quality mitigation measures.

- Materials used for the construction of the hard-standing for the turbines will be of the same geo-chemical nature as the local bedrock.
- The drainage network and treatment infrastructure will be designed to continue operation during the operational phase of the proposed development.
- The potential for accidental spillage during the operational phase will be avoided and minimised by the provision of bunding and the inherent safety measures incorporated into the drainage network.

Bird mitigation measures.

- The proposed turbines will be fitted with aviation warning lights in accordance with standard industry practice.
- Bird activity will be monitored for three years post construction by a suitably qualified ecologist. Upland breeding bird surveys will be carried out and an annual report will be prepared and submitted to the NPWS and the Planning Authority.
- A fatality monitoring program will be instigated for the first three years of operation of the wind farm. This will involve monthly searches around each of the turbine bases. Any fatalities noted by staff or maintenance crews will be logged on a wildlife register.

It is stated that the mitigation measures set out in the NIS are based on best practice guidance and have undergone extensive and rigorous monitoring for their effectiveness where they have been previously applied.

Finally, section 5.6 of the NIS sets an Emergency Contingency Plan to address any mitigation failure. These include ongoing monitoring training of staff and ceasing all construction work in the event of an emergency. The NIS concludes on the basis of the information submitted, that the project will not alone or in combination with other plans or projects, result in significant adverse effects to the integrity and conservation status of European sites in view of their Conservation Objectives and on the basis of best scientific evidence it is stated that there is no reasonable scientific doubt in respect of this conclusion.

10.5. **Independent Assessment of the Information Contained in the NIS Submitted**

I am satisfied on the basis all the information submitted in the NIS, that this document adequately explores and assesses in a detailed manner the potential impacts that could arise in respect of the proposed wind farm on the qualifying interests of the Natura 2000 sites in the vicinity.

I am satisfied that it has been demonstrated through adequate research and surveys that the only potential adverse impact that could arise in the case of the surrounding SAC's, relates to the possibility of otters foraging in catchment areas located down stream of the project site. Therefore, any potential impact on water quality upstream of these foraging sites has the potential to impact on the foraging habitat of the otter. The NIS has set forward a comprehensive suite of mitigation measures to ensure that the water quality will not be adversely affected as a result of the proposed development.

With regard to collision, disturbance and displacement of foraging habitats of birds associated with the SPA's, the NIS sets out details of breeding populations, flight paths and the foraging, breeding and nesting habitat extent and quality, for each of the species of conservation interest associated with the SPA's. The analysis concludes that there is no evidence of breeding or roosting activity within, or adjacent to the proposed wind farm site in respect of the species in question. Furthermore, the numbers of species of conservation interest have not been recorded in any great numbers in the vicinity of the site. Therefore, significant effects with regard to collision, direct habitat loss, disturbance or displacement are not anticipated.

Cumulative and In-combination Effects

Section 5.2 of the NIS specifically relates to cumulative impacts and in combination effects with other plans and projects. Projects identified include other wind farms in the vicinity, interaction with agriculture, tree felling and turbary activity. I am satisfied that the mitigation measures set out will adequately address any potential in-combination effects. It can be reasonably concluded in my opinion that no residual cumulative or in-combination effects will result from the proposed development.

Having regard to the detailed assessment carried out in the NIS together with my independent assessment in respect of the bird populations of special conservation interest and the otter foraging habitats associated with the SAC's in the vicinity, together with the modest number of turbines proposed and the distances between same, and the separation distances between the Natura 2000 sites and the wind farm site, I consider that the conclusion reached in the NIS is reasonable. On the basis of the field survey results and the detailed analysis undertaken as part of the application and the NIS, it can be reasonably concluded, on the basis of best scientific knowledge and beyond all reasonable doubt, that the proposed development will not adversely affect any of the species of conservation interest associated with the SPA or the habitats associated with the SAC, either directly, indirectly or cumulatively.

On the basis of the information provided with the application, including the Natura Impact Statement, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, and the assessment carried out above, I am satisfied that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Slieve Tooey / Tormore Island / Loughros Beg Bay SAC (Site Code 00190); West of Ardara /Maas Road SAC (Site Code 00197); the Lough Nillan Bog SPA (004110); Sheskinmore Lough SPA (Site Code 00490) Durnesh Lough SPA (Site Code 004145) or any other European site, in view of the site's Conservation Objectives.

Finally, in relation to Appropriate Assessment matters, the planners report notes that the Meenybradden Bog pNHA, which is located c.500m from the appeal sites has

not been included for the purposes of appropriate assessment. The Board will be aware that pNHA's are not designated European sites and as such are not subject to appropriate assessment. The Biodiversity chapter of the EIAR addresses the impact of the proposal on pNHA's in the area (see bottom of p340 of document). In respect of the Meenybradden pNHA it notes that the proposed wind farm will not have the potential to result in negative effects on blanket bog habitats occurring within pNHA's due to the separation distances involved.

11.0 **ENVIRONMENTAL IMPACT ASSESSMENT**

The application is accompanied by an Environmental Impact Assessment Report (EIAR) on the basis that it falls within a class of the 5th Schedule of the Planning and Development Regulations 2001 (as amended). It falls within Part 2, Class 3(i) of Part 2 of the Planning and Development Regulations, that being "*projects of more than 5 Turbines or having a total output greater than 5 megawatts*". The wind farm before the Board comprises of 3 turbines with a total project output of greater than 5 Megawatts. Furthermore, the EIAR notes that the proposed development is sited adjacent to a newly constructed wind farm and 1.5 km form a permitted wind farm and the scale and nature of the cumulative impact would also be a factor in deciding whether or not an EIAR would be required.

The application was lodged subsequent to the provisions of Circular Letter PL1/2017, and therefore the subject 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. It also falls within the scope of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (SI No. 296 of 2018), as the application was lodged subsequent to these Regulations coming into effect on 1st September 2018. This section of my report evaluates the information in the EIAR and carries out and independent and objective environmental impact assessment (EIA) of the proposed project in accordance with the requirements set out in the above legislation. In carrying out an independent assessment, I have examined the information submitted by the applicant including the EIAR as well as the written submissions made by the 1st Party to the Board on appeal.

A single EIAR (together with a number of appendices A-G)) has been prepared in respect of the proposed wind farm. Two books of photomontages have also been submitted along with a separate NIS. This EIA section of the report should, where appropriate, be read in conjunction with the relevant parts of my Planning Assessment and the Appropriate Assessment undertaken.

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.

Details of Competencies and Expertise of the Contributors to the EIAR

The EIAR has been prepared on behalf of the developer by a multi-disciplinary team of competent and technical experts in accordance with the requirements of Article 5(3) of the amending Directive. The competencies and responsibilities of the experts are detailed in Section 2.5 of the EIAR. The various consultants involved in the component assessments undertaken are set out in tabulated form on page 47 of the EIAR. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and this is reflected in the information contained in the EIAR.

Details of Public Consultations undertaken as part of the EIAR

Details of the consultation entered into by the applicant as part of the preparation of the project and to inform the EIAR process are set out at Section 2.3 of the document. A Public information event was held in Inver Community Hall. The event was advertised in local newspapers and on radio. A follow-up event had to be cancelled due to Covid-19 restrictions.

Chapter 3 of the EIAR sets out details of local regional and national policy as it relates to planning for wind farms. It concludes that the subject site is located in an area which is ‘open for consideration’ in the Donegal Development Plan. It is not located in a designated scenic landscape or route and generally complies with the

Wind Energy Development Guidelines. For further details with regard to compliance with Policy please see Section 8 of my main report.

Section 4 set outs details of wind energy and renewable energy in Ireland and the necessity for supporting and developing wind energy in the context and threat of climate change.

Consideration of Alternatives

Section 5 of the EIAR sets out details of the proposed site location and description and the evaluation of the alternatives considered as part of the development. Part 2 of Annex IV of the EIA Directive requires that the developer sets out a description of reasonable alternatives studied and providing an indication of the main reasons for selecting the chosen option.

The EIAR explored alternative sites including sites at Kilcroghery south-west of Ballybofey, South of Killygordon and Ardvarnock, Convoy. These other sites were rejected on the basis that the preferred site had a shorter connection to the electrical grid, existing infrastructure available, including roadways, proximity to dwellings and proximity to existing wind farms which would reduce the cumulative impact and the more favourable policy context pertaining to the proposed site.

The EIAR also considered alternative design, technology, size and scale. A number of alternative types and sizes of turbine were considered and the final height of 110m was considered most appropriate in terms of compliance with development plan requirements, maximising output and reducing the visual impact. Different designs and layouts were explored as part of the exercise.

I am satisfied that the developer as part of the EIAR process has considered various alternatives relating to the proposed wind farm development in accordance with the provisions of the Directive.

Description of Proposed Development

Chapter 6 of the EIAR provides a description of the proposed development and sets out in detail the site layout, the number of turbines proposed and the design process in order to maximise the utilisation of the wind resource. Details of the turbine description and erection are also set out including details of the rotor/hub nacelle and

control systems. The foundations of the turbines will have a diameter of 19.1m and a depth of 3.25m. The volume of concrete for each turbine will be c.646m^3. Access roads will include a clearance width of 5.5m. Just under 8,000 m^3 of stone will be required for the development of the access road turning areas and hard standing. Some flexibility is sought in the in the micro-siting of each turbine based on specific site characteristics. All cables will be run underground. Approximately 7.3 ha of coniferous woodland (Sitka Spruce) will be felled to facilitate two of the turbines. The proposed wind farm will be connected directly via an electrical connection to the nearby Killin Hill 38 KV substation consisting of c.1245 meters of underground ducted cables and a 332.2 m^2 extension to Killin Hill 38kV sub-station in Meenagranoge. This extension is required to provide housing for the switch gear and to provide an additional control room. A new temporary compound will be provided adjacent to Turbine no. 3.
Construction will last c.12 months and will involve c.560 deliveries to the site, mostly associated with the concrete foundations. Details of the construction timetable are set out. The turbines are intended to be operational for 20-25 years.

Environmental Factors

The sections below address each of the environmental factors. The headings used in the EIAR are as follows:

- Population and human health
- Landscape and Visual
- Noise and Vibration
- Biodiversity
- Land and Soils
- Water
- Cultural Heritage
- Air and Climate
- Material Assets
- Radiation

- Traffic and Impacts on Access Roads
- Interactions Between Topics
- Conclusion
- Summary of Mitigation and Monitoring Measures

Section 7 of the EIS relates to ***Population and Human Health***. It examines the receiving environment including population trends in the Republic of Ireland and Donegal for comparative purposes. Details of the socio-economic profile of the county is also set out as are details of the demographic and employment profiles. The tourist profile of the county is described, and it is stated that there are no known tourist facilities in the environs of the site. Reference is made to a number of surveys carried out in respect of renewable energy in Ireland. It notes but there is generally a positive attitude towards renewable energy and wind farms. Table 7.1(3) sets out details and a summary of the various studies and reports concerning people's attitudes towards wind farms. It suggests that there is no conclusive evidence of a correlation between wind farm development and any adverse impact on tourism. On this basis it is concluded that the proposed wind farm will have no significant effect on tourism. In terms of impact on population, it is stated but there is little or no population in the general area of the proposal development. There are only a few dwellings in the immediate general area of the site. There are no sensitive land uses in the location of the wind farm. It is considered that the proposed wind farm would consolidate and augment the existing operational wind farms in the vicinity.

In terms of socio-economic impacts, a number of positive impacts are identified including contributing to the policy objectives of the development plan, augmenting electricity supply which will foster economic development and job creation in the area. These are all identified and described in the EIAR as positive impacts. These surveys suggest that there is no relationship between wind farm development and the tourist industry; and that tourists on the whole have positive or neutral attitudes towards wind farms.

In terms of mitigation measures, no mitigation measures are required in respect of land use or socio-economic impacts. The residual impacts are deemed overall to be positive.

In terms of Human Health, a total of 10 potential impacts are identified, described and assessed. These are set out below:

(1) Potential impact on human and animal health during the construction phase. A specific Health and Safety Statement for the construction phase of the project will be prepared in accordance with the Guidelines on Procurement, Design and Management Requirements of the Health and Safety and Welfare at Work Regulations 2006. This is stated will address all issues in respect of construction.

(2) During the operational phase access to the plant would be restricted to authorized persons only. The components of the wind farm are designed to last 20 years and are equipped with a number of safety features to ensure their safe operation during their lifetime. These include vibration sensors, static testing of rotor blades, independent fail-safe mechanism to stop the turbine should the need arise. Turbines will be equipped with lightning protection equipment. In terms of ice throw, the turbines will be fitted with anti-vibration sensors which will detect any imbalance caused by the icing of the blades. The turbines will not operate until the blades have been de-iced. The incorporation of a mat finish on the turbines will ensure that flashing does not occur.

(3) In terms of shadow flicker, a shadow flicker assessment methodology is set out in the EIAR. Three houses are identified as having the potential to be impacted upon in terms of shadow flicker. All these houses are owned by stakeholders in the project. Under a worst-case scenario, these dwelling could potentially experience between 37 and 45 hours of shadow flicker resulting from the turbines, however when the figure is adjusted for mean sunshine hours, the level of shadow flicker is reduced to between 8.7 and 11 hours. This is considerably below the recommended 30 hour per annum limit set out in the guidelines. An Enercon SCADA System can be installed to stop turbines for periods when shadow flicker might occur. No non-participating houses will experience shadow flicker.

(4) In terms of noise impacts, it is stated that during the construction phase, the distance between the turbines and the nearest residential receptors will ensure that there is no appreciable impact. Impacts during the operational phase are assessed in more detail below.

(5) In terms of air quality, Emissions from construction traffic are identified as a potential source of air pollution. However, given the short-term nature of the construction, and the separation distance between the turbines and the nearest dwellings at over 400 meters, no impacts in terms of air pollution are anticipated. During the operational phase, the reduction in reliance on fossil fuels will be of positive benefit.

(6) Traffic Impacts are assessed under a separate section, however this section of the EIAR note that the impacts will be temporary and minor during the construction phase. If deliveries involve exceptionally large loads they will be undertaken during off peak periods and will be coordinated with the local authority and the Gardai.

(7) In terms of electromagnetic interference impacts, there is sufficient evidence from studies of existing wind farms to conclude that there is no sources of electromagnetic emissions of sufficient strength to have any significant impact on the environment.

(8) Impact on aviation, the wind farm is not located within the vicinity of airports and sufficient evidence has been accrued to conclude that the wind farm will not cause any interference to air traffic. Obstacle lights will be installed on the turbine with the highest elevation if required by the Irish Aviation Authority.

(9) In terms of land and soil, the risk of a bog-slide our bog burst is identified as a potential impact. There are no historic records have landslides or peat slides within 7 km of the site, and there is no indication of ground stressing our instability. Mitigation measures are recommended for the construction phase of the development to ensure that no ground stressing occurs.

(10) Potential water contamination is also identified as an impact. There are no rivers in the area that have been designated as protected areas with the exception of the Oily River. The nearest recorded well is c. 2.8 kilometers to the southwest of the site. The proposal has the potential to result in the release of suspended solids during the construction phase. Mitigation measures will be put in place to address this.

It is concluded therefore that if appropriate mitigation measures, I put in place there will be no significant adverse effects on the local population or on human health.

I have considered all the information on file in relation to population and human health and the information contained in the EIAR. I am satisfied that the potential for impacts on population and human health can be avoided, managed and/or mitigated

by measures that form part of the proposed scheme and with suitable conditions, to an acceptable extent.

Section 7.2 of the EIAR relates to **Landscape and Visual Assessment.** This section outlines the methodology used in assessing the visual impact together with the assessment criteria used in the methodology. The existing environment is described and assessed with reference to vegetation, land use, heritage, amenity and settlement patterns. The assessment goes on to highlight guidance in relation to the siting and assessing the visual impact. Reference is also made to the policies and provisions in the Donegal Development Plan. Details of the Zones of Theoretical Visibility (ZTV) is indicated in Figure 1.6 of the document. The impact of the development is then assessed from a number of 'Viewshed Reference Points'. These reference points are depicted in the photomontages attached. A total of 17 viewshed reference points are assessed. The impacts are characterised as ranging from 'imperceptible', 'slight' or 'moderate-slight'. The EIAR goes on the assess the potential cumulative impacts arising from other wind farms in the area. A total of 10 wind farms were assessed within a 16km radius of the site. It is stated that in all but one of the assessed vantage points, the proposed wind farm is seen as part of the existing Killen Wind Farm. Owing to proximity the wind farms in the immediate area (existing permitted and proposed), it is stated that the cumulative impact is read as one single 13 turbine wind farm. The highest level of impact is likely to be from the south-western portion of the Bluestack Mountains to the north-east of the site, where the impact is assessed as being 'moderate-slight'. Beyond the central study area (3-5 km) the turbines will have very little influence prevailing landscape character especially given that wind energy developments are already a characteristic landscape feature. Consequently, even in high sensitivity mountain and coastal landscape character areas, the significance of the landscape impact will not be greater than 'slight -imperceptible'. By far the most ameliorating factor with regard to visual impact is the presence of the existing Killen Hill turbines. It is also argued that there is a strong sense of consolidation afforded from various views arising from the combined developments.

Overall, therefore EIAR concludes that when assessed cumulatively, with other wind farms in the area, it is considered that the proposed wind farm will not give rise to

significant landscape or visual effects in EIA terms. Instead, the visual impacts are judged to be in the 'mid to low' range across all aspects of the study.

I have considered all the information in the EIAR in relation to landscape and visual assessment. I am satisfied that the potential for impacts on landscape have been properly assessed both individually and cumulatively and having regard to the presence of existing turbines in close proximity both permitted and constructed, I am satisfied that the proposed three turbines will sit comfortably with the existing turbine layout and will not have any significant adverse impact on the visual amenities of the area. I am satisfied that the potential for impacts on the landscape can be avoided, managed and/or mitigated by measures that form part of the proposed scheme and with suitable conditions, to an acceptable extent.

Section 7.3 relates to **Noise and Vibration**. The EIAR makes reference to wind energy guidelines in relation to the noise assessment, reference is made to:

- Wind Energy Development Guidelines for Planning Authorities (2006)
- The Draft Revised Wind Energy Development Guidelines (2019)
- ETSU -R-97 (UK Guidelines 1996)
- Irish Planning Institute Guidelines on Noise Standards.
- IOA Good Practice Guidance documents

For the purposes of assessment and having regard to the fact that the wind energy development guidelines are still in draft form, the ETSU-R- 97 prepared by the UK Good Practice Guidelines issued by Institute of Acoustics has been used in the assessment of noise impacts.

In terms of construction impacts, all construction work will be carried out in accordance with BS5228: Part 1 of 1997. Having regard to the distances between the nearest houses (noise sensitive receptor) and the turbines, and the fact that the nearest receptors within 1 km are all stakeholders in the project, it is unlikely that construction impacts are likely to create significant impacts in terms of construction noise. Noise limits for construction activities are deemed to be acceptable at less than 60 dB(A) L_{Aeq}. These limits can be readily achieved at the subject site having regard to the separation distances involved between the turbines and non-stakeholders dwellings. Any construction impact will also be temporary in nature.

During the operation phase the EIAR assesses the predicted noise impact at the nearest noise sensitive houses. A total of 12 houses in the vicinity were assessed at wind speeds ranging from 3 to 13 m/s. The likely impact of noise from the operation of wind turbines or assessed by comparing the cumulative predicted wind turbine noise level with corrected baseline noise levels (LA_{90}) at the various wind speeds. The EIAR Suggests that noise from a wind farm should be limited to a margin of +5 dB above the background noise level to an absolute limit of 35 -40 dB (10 min) during daytime hours or a lower limit of 43 dB (LA_{90}) during nighttime hours. In the event that a resident has some financial interest in the wind farm, the lower fixed limit may be increased to 45 (dB(A)). An examination of the impact indicates that in the case of a number of houses the wind turbine noise will be more than 5 dB above the background noise level during daytime hours at some of the wind speeds. However, it is stated that lowering the noise level too much would prove very restrictive on the development of wind energy. For that reason, it is recommended that in areas of low background noise it would be appropriate to use a lower fixed limit for turbine noise. Other than five houses (house no.'s 12, 13, 14, 19 on 65) the predicted wind turbine noise level will be lower than 40 dB (LA90) at all speeds.

When the site is assessed using The Irish Planning Wind Energy Guidelines for 2006 it could be concluded that the level of wind turbine noise would not exceed a limiting level of 45 dB LA_{90} at any location. Where the LA90 is lower than 30 dB, a daytime limit level of 35 to 40 dB would apply. The baseline noise study shows that at the locations assessed, the site is not a low noise environment and therefore the daytime limiting level of 45 dB LA_{90} applies.

It should also be noted that prevailing winds at the site are such the house no's 12, 13, 14 and 19 are all upwind of the site and consequently noise levels will be lower than those predicted for more than 60 to 80% of the time.

No impacts are anticipated in terms of vibration either during the construction or operational phase.

It is calculated that based on the modeling undertaken, the predictions show that it will be possible to operate the proposed wind turbines in addition to existing and other turbines without giving rise to an appreciable impact of residential properties.

I have considered all the information in the EIAR in relation to noise and vibration. I am satisfied that the potential for impacts in terms of noise on residential receptors in the vicinity can be avoided, managed and/or mitigated by measures that form part of the proposed scheme and with suitable conditions, to an acceptable extent.

Section 7.4 relates to ***Biodiversity***. Details of a series of field studies and site investigations that were carried out are described in the EIAR. These included bat surveys and bird surveys. The bird surveys were undertaken at various times throughout the year (including breeding surveys) between 2017-2019. The details of the dates of the individual surveys are set out in the EIAR. Surveys of non-volant mammals, freshwater pearl mussels and invertebrates were also undertaken. Full details of the various habitats on which the site is located are also described in detail. These are set out in Table 5.8 in the EIAR. It is noted that there are 3 unnamed streams rising within or adjacent to the proposed site. Details of the surface water hydrology are described. Lake surveys in the vicinity of the site were also undertaken.

No Whooper Swans or Greenland white-fronted geese were recorded at these lakes during the 2019 census survey. Frogs were the only herpetofauna found on site. No amphibians or lizards nor Smooth Newt were observed in and around the site. Rivers to the north of the wind farm support stocks of sea trout and brown trout. Fresh Water Pearl Mussel was encountered c 7.8 km on the Oily River downstream from Lough Namanfin. Mussels were also found along stretches of this River. No Otters were encountered.

In terms of the site evaluation, the EIAR states that direct habitat loss during the construction phase of the proposed wind farm will be confined to areas occurring under the footprint of the turbine locations, access track, control building, cable trenches and forestry felling. There will be no loss of natural habitats such a blanket bog, dry heath or grassland under the footprint of the proposed wind farm. However there will be a loss of conifer planting as a result of turbines T1 and T2. Details of the extent of habitat loss are set out on Table 5.25.

In terms of impacts on terrestrial fauna, no impacts are anticipated during the construction phase otters, badgers or bats. The EIAR assesses the impact on bat

roost, habitat loss (for foraging etc) potential barrier effects or collision fatalities to be generally low.

During the operational phase, the risk of direct mortality or lethal injury through collision with operating turbines is also considered to be low. Kestrel was the only bird regularly recorded flying in the area during the bird surveys. Based on research surveys in the EIAR, it is considered that due to the unsuitable nature of the habitat occurring within the site, being dominated by closed canopy coniferous plantation, the low number of records of raptor species surrounding the site and lack of use of the site for breeding are roosting by these birds the likely potential for collision with the turbines is very low.

The EIAR also assess is potential cumulative impacts with specific reference to cumulative impacts on bats, birds and habitats. It is concluded that no adverse significant cumulative effects will occur.

Finally, this section of the EIAR set out a series of mitigation measures for the construction phase. The specific mitigation measures relate to: water quality and aquatic fauna, measures to minimise the impacts from forestry felling, mitigation by remediation, mitigation by reduction and mitigation by avoidance. Detailed monitoring is also proposed to be carried out. It is concluded not the residual impacts with the employment of suitable mitigation measures including the mitigation measures set out in the separate NIS submitted with the application (see section 10.4 of my report) will ensure that significant residual effects on habitats, terrestrial fauna and bird and bat species is unlikely to occur.

I have considered all the information in the EIAR in relation to biodiversity and I am satisfied that the potential for impacts on biodiversity can be avoided, managed and/or mitigated by measures that form part of the proposed scheme and with suitable conditions, to an acceptable extent.

Section 7.5 of the EIS relates to **Lands, Soils and Geology**. This section of the EIAR begins by setting out the impact assessment methodology including a desk study used to assess any potential impact on the proposal the existing site. Site investigations were carried out on four separate occasions in 2018 and 2019. The northern portion of the site is cut over peat where as the southern portion of the site where two turbines are to be located is described as forestry plantation. Both

portions of the site will remain essentially the same (in terms of land soils and geology) before and after the development with the exceptions of the areas of hardstanding which will be excavated for the turbine foundations along with some access roads excavation and excavation associated with the substation. There are no recorded geological heritage sites or points of interest within the boundary of the development.

The site is underlain by predominantly by Banagher Sandstone formation. The peat which overlies the sandstone is described as ‘shallow, brown to dark brown, soft, moist, fibrous to semi-fibrous peat. Peat depths range from 0.2 m to 2.95m across the site. The is a pocket of deeper peat within the Coillte forest up to 6.5m in depth[1].

In terms of slope stability, the EIAR states that there have been no recorded landslides within 7 km of the site. The proposed turbine locations are situated on slopes with an incline of approximately 3° degrees or less. But the suitability of each site is dependent not only on the slope measurement but the relationship between a number of factors including the depths of peat, the presence or otherwise of unconsolidated deposits, the undrained shear strength of the underlying strata and the degree of peat humidification. No ground disturbance or stress indicators were observed throughout the site. In the southern portion of the site, which accommodates the forestry there was some evidence of disturbance. However, this disturbance was attributed to soil creep.

The risk of a potential bog slide or bog burst is assessed in the EIAR on the basis of the factors referred to above. It is noted on the basis of the risk assessment that none of the proposed turbine locations are within medium or high risk areas and therefore the potential impact arising from a bog slide is unlikely.

The EIAR sets out a series of mitigation measures which are primarily predicated on mitigation by avoidance throughout the construction phase. These mitigation measures include subsoil and bedrock removal techniques, excavation work techniques, storage and stockpiling of materials and constant supervised geotechnical / engineering monitoring during the works to ensure ground and peat stability.

[1] The turbine foundations are to avoid this area.

I have considered all the information contained in the EIAR. I am satisfied that the potential for impacts on lands soils and geology can be avoided, managed and/or mitigated by measures that form part of the proposed scheme and with suitable conditions, to an acceptable extent.

Section 7.6 of the EIAR relates to **Water**. The existing water environment was determined by a detailed walkover study. Three streams were identified on site, two in the southern portion and one in the northern portion. There are no large rivers or other surface water bodies within the confines of the site. Lough Namifin is located to the west of the site and the stream in the northern area of the site flows into this Lough. Field testing of the physiochemical parameters off the surface waters were undertaken. The results are the analytical tests were in line with expected values for unpolluted water courses within an undeveloped environmental setting.

In terms of groundwater the site is underlined by a predominantly moderately productive aquifer which is a locally important aquifer. The northern extreme of the site is underlined by a poor aquifer. The aquifer is assigned of vulnerability rating from extreme to low depending upon the subsoil type and thickness. No published data is available on groundwater quality.

The EIAR goes on to identify describe and assess the potential impacts arising from the development on water quality. During the construction phase increased runoff, increased hydraulic loading and dewatering / diversion of drainage are all identified as a potential adverse impacts. In terms of adverse impacts on water quality, risk of pollution from hydrocarbons leakage, increased levels of siltation, potential leakage of wastewater, cement or concrete during the construction phases are all identified as potential adverse impacts during the construction phase.

With regard to groundwater, excavation seepage or ingress of pollutants to groundwater as well as dewatering of the water table and wells in the area are also identified as potential threats.

During the operational phase increased surface water flow and alternations to the drainage pattern and identified as potential adverse impacts.

To address these potential impacts, the EIAR set out a series of mitigation measures in respect of construction drainage measures to reduce increased runoff, water quality protection measures, groundwater protection measures.

The residual impact on the water environment during the construction phase is anticipated to be limited to a temporary decrease in water quality within the site as a result of suspended solids and settlement during the excavation and construction process. Any local deterioration in water quality is likely to be reduced naturally by dilution and managed by mitigation within the site boundary. The overall impact is therefore anticipated to be 'slight and temporary'. During the operational phase, the residual impact is anticipated to be increased runoff of rainwater on drainage discharge from the new hardstanding areas. Different parts of the site may experience a net change in wetting and drying as a result of the altered drainage pattern.

I have considered all the information contained in the EIAR. I am satisfied that the potential for impacts on surface water and groundwater can be avoided, managed and/or mitigated by measures that form part of the proposed scheme and with suitable conditions, to an acceptable extent.

Section 7.7 of the EIS relates to **Cultural Heritage**. This section outlines the methodology assessment used in preparing the chapter which included a desk-based study and a field survey. Details of the receiving environment are described. The history of the area from pre-historic times is set out chronologically. The nearest features are a rectangular ruin of a house 1.3 km from the site and a Court Tomb (SMR) 1.2 km at Killen Hill. No additional evidence of any additional archaeological features on the site or in the vicinity of the site were discovered from aerial photography or cartographic sources. Archaeological investigations were carried out as required by condition at the Killin Hill wind farm. Nothing of archaeological interest was found. No Archaeological features were identified along the grid route connection. It is concluded but there will be no direct, indirect or cumulative effects during either to construction or operational phase of the proposed wind farm. However, the possibility exists that previous unknown archaeological material could be uncovered during construction work for the wind farm, and it is therefore recommended that all groundworks, geotechnical investigations and associated works be archeologically monitored under license.

I have considered all the information contained in the EIAR. I am satisfied that the potential for impacts on archaeology and cultural heritage can be avoided, managed

and/or mitigated by measures that form part of the proposed scheme and with suitable conditions, to an acceptable extent.

Section 7.8 of the EIS relates to **Air and Climate**. It sets out details of the air quality guidance and regulations in Ireland. It is noted that the subject site is located in Air Quality Zone D. There is no air monitoring stations in Donegal, however the subject site, having regard to its rural can be expected to have good air quality. Details of meteorology data relating to the area is also set out. The potential impacts arising from the construction phase are identified as being exhaust emissions from transport carrying out construction works and bringing materials to the site, dust emissions from the construction of turbines and other infrastructure on site. A series of mitigation measures are set out to counteract any potential impact on air emissions. During the operational phase, the proposal by providing an alternative to electricity generated from fossil fuel sourced power stations, will result in reduced emissions of CO_2 (12,543 tonnes/year), SO_2, (275 tonnes per year) and NO_x. (82 Tonnes per year). This will result in a long-term significant positive impact.

There will be no measurable cumulative effects with other developments on are quality and climate.

I have considered all the information contained in the EIAR. I am satisfied that the potential for impacts on air quality and climate have been identified and assessed and that the impact on the whole will be positive in terms of air and climate.

Section 7.9 of the EIS relates to **Material Assets.** It is noted that the site is mostly agricultural marginal land for grazing of sheep with some coniferous forestry. It also has a good wind resource with some turbary activity on the margins.

The proposal will have no significant impacts on material assets or land uses in the area. It will result in the removal of an area of coniferous forest which is of a low yield class with due to acidic peaty soils and its exposed location. It will increase the security and reliability of electricity infrastructure in the area and will provide a long-term sustainable income for landowners associated with the development. Overall, it is concluded that the proposed development will have no significant adverse impact on land use or material assets.

I have considered all the information contained in the EIAR in respect of material assets. I am satisfied that the potential for impacts on land use and material assets will, as in the case of air pollution and climate change generally be positive.

Section 7.10 of the EIAR relates to **radiation and electromagnetic impacts**. It notes that interference with communication systems can result from wind turbines by way of electromagnetic interference and signal scattering and obstruction. Electrical equipment used during the construction phase will not have the potential to have any significant effect on electromagnetic interference. In terms of signal scattering, the rotation of blades can create forward and backward scatter to television reception and telecommunication networks. During the course of the EIAR preparation, consultative bodies relating to telecommunications where contacted. There is sufficient evidence from correspondence with the consultative bodies to arrive at a conclusion that the probability of the wind turbines at this site creating telecommunication interference is very small. Details of the correspondence is contained in appendix 7.10A. It is therefore considered that no mitigation measures are required in respect of electromagnetic interference.

I have considered all the information contained in Section 7.10 of the EIAR. I am satisfied that the potential for impacts in terms of Electromagnetic interference can be avoided, and no mitigation measures are required.

Section 7.11 relates to **Traffic and Access**. The major potential impact in traffic terms will occur during the construction period. It is estimated that 418 deliveries will be necessary during the construction of the wind farm much of which will be associated would deliveries to and from the site estimated to be around 80 deliveries per day. Car movements associated with the workforce will amount to 5 to 10 workman per day.

The wind turbine components will be delivered to site on large articulated lorries. A 600 tonne, 500 tonne and 300 tonne mobile crane will be used for turbine erection on site. Details of the various movements during the construction period are set out in the EIAR. Appendix 7.11A sets out details of the transport assignment route assessment and survey. Killbegs Harbour is the designated port to land the wind turbine components. Full details of the route and any modifications required from a traffic management perspective is set out in the EIAR. This includes appropriate

traffic management controls. Mitigation measures including road improvement and upgrading, a construction traffic management plan and the transportation of large components during off peak periods are proposed. It is concluded therefore that traffic movements will only have a short-term impact during the construction phase and there will be no effects thereafter. The phasing and scheduling of this traffic will ensure that the impact will not be significant.

I have considered all the information contained in the EIAR. I am satisfied that the potential for impacts on traffic and road infrastructure can be avoided, managed and/or mitigated by measures that form part of the proposed scheme and with suitable conditions, to an acceptable extent.

Section 7.12 of the EIAR relates to **Interaction between topics**. A matrix Is presented in Table 7.12, which highlight areas of potential interactions.

Section 8 provides an overall conclusion and a schedule of detailed mitigation measures for each of the sections assessed in the EIAR.

11.1. **Reasoned Conclusion on the Significant Effects**

Having regard to the examination of environmental information contained above in the EIAR submitted by the applicant, I would conclude the following in relation to significant effects:

(a) The most significant effects will be the visual impact arising from the permanent removal of forestry and the erection of 3 wind turbines with a tip height of 110 meters in height. These structures will have a significant impact on the receiving environment and will be visible, at certain vantage points at distances up to 9 to 10 km surrounding the site. However, development must be assessed in the context of the extant permissions in the immediate area surrounding the site, including the three existing turbines erected under the Killin Hill wind farm development and the grant of planning permission for 7 turbines to the north at the Clogheravaddy turbines. The visual impact arising from the proposed development will contribute to the presence of the turbines at this location and will not look incongruous or out of place in the existing environment.

(b) From a sustainable energy perspective, the proposal fully supports government policy to reduce reliance on fossil fuels and provide more sustainable sources of energy. The proposal will result in the reduction significant emissions of CO_2, NO_x and SO_2 during the lifespan of the wind farm. The proposal therefore will have a moderate positive impact on climate change and on reducing the states reliance on fossil fuels.

(c) The EIAR suggests that the turbines will not have any material effect on tourism in the area on the basis that surveys undertaken suggest that tourists have a generally positive disposition towards wind farms and also on the basis that there are already existing wind farms in the area. The provision of a new renewable energy resource could also improve and facilitate business opportunities in the wider area.

(d) Impacts in terms of traffic, noise, shadow flicker and water quality and land soils could potentially occur either during the construction or operational phase and this could give rise to adverse environmental impacts or impacts on sensitive receptors in the surrounding area. However, with the incorporation of appropriate mitigation measures and the implementation of best practice, the impacts are deemed to be acceptable.
(e) Finally, EIAR reasonably concludes in my opinion, having regard to the nature of the existing environment, that there will be little or no adverse impacts arising from the proposed wind farm in terms of biodiversity, material assets, electromagnetic radiation and cultural heritage.

The EIAR has considered that the main significant direct, indirect and cumulative effects of the proposed development on the environment and potential impacts would be primarily mitigated by environmental management measures, as appropriate. Following mitigation, no residual significant long-term negative impacts on the environment or sensitive receptors would remain with the exception of the visual impact and the positive impact in terms of promoting and utilising more sustainable forms of renewable energy. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on the environment during the construction or operational phase, particularly in the context of the wind farm developments already permitted in the area.

I am satisfied that the information provided is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. Overall, I am satisfied that the information contained in the EIAR complies with the provisions of Article 3, 5 and Annex (IV) of EU Directive 2014/52/EU.

12.0 **Overall Conclusions and Recommendations**

Arising from my assessment above, I consider that there is no lacuna in wind farm policy which would preclude the Board from determining the proposed development. There is sufficient policy at national and regional level together with the over-arching policies contained in the Donegal County Council development plan which seek to encourage alternative forms of sustainable energy, including wind energy, to permit the Board to adjudicate on the current application and appeal. Furthermore, it is considered that the proposed development would be in accordance with the proper planning and sustainable development of the area and I therefore recommend that the decision of Donegal County Council in this instance be overturned and that planning permission be granted for the proposed development.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to:

(a) national policy relating to the development of sustainable energy resources,

(b) the provisions of the “Wind Energy Development Guidelines” for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June, 2006,

(c) the over-arching policies of the planning authority as set out in the Donegal County Development Plan, as varied,

(d) the scale and community based nature of the proposed development,

(e) The presence of existing turbines in the immediate vicinity

(f) the general character of the site and the landscape features and general topography of the surrounding area,

(f) the separation distance of the proposed turbines from any inhabited dwellings,

(h) the range of mitigation measures set out in the documentation received including the Environmental Impact Assessment Report and the Natura Impact Statement

(j) the report of the Inspector,

it is considered that the proposed development, subject to compliance with the conditions set out below, would be in accordance with the National and County policies in respect of wind energy, would not give rise to pollution, would not result in unacceptable impacts on the visual amenity of the general area, would not seriously injure the amenities of the area or of property in the vicinity of the site, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board agreed in full with and adopted the conclusions of the Planning Inspector in respect of the conclusions reached in the stage 2 Appropriate Assessment submitted with the application. In this regard, the Board concurred with the conclusion reached in the Natura Impact Statement submitted that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any European site in view of the site's conservation objectives.

Environmental Impact Assessment

The Board considered the Environmental Impact Assessment Report submitted with the application to the planning authority, the submissions on file and the Inspector's assessment of the environmental impacts. The Board considered that the Environmental Impact Assessment Report together with other documentation on file, was adequate in describing the direct effects, indirect effects and cumulative effects in combination with other projects of the proposed development, including grid connection. The Board noted and adopted the Inspector's report and conclusions in respect of Environmental Impact Assessment.

The Board completed an Environmental Impact Assessment and concluded that the proposed development, subject to compliance with the mitigation measures proposed, and subject to compliance with the conditions set out below would be acceptable having regard to the proper planning and sustainable development of the area.

CONDITIONS

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

   REASON: In the interest of clarity.

2. All of the environmental, construction and ecological mitigation measures set out in the Environmental Impact Assessment Report and Natura Impact Statement accompanying the application to the planning authority and other particulars submitted with the application to the planning authority shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.

   REASON: In the interest of clarity and the protection of the environment during the construction and operation phases of the development.

3. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this order.

   REASON: Having regard to the nature of the development, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.

4. This permission is for a period of 40 years from the date of commissioning of the wind farm. The wind turbines and related ancillary structures and temporary

roadway shall then be removed and the site appropriately reinstated, prior to the end of this period, unless planning permission shall have been granted for their retention for a further specified period. Details of the reinstatement plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

REASON: To enable the impact of the development to be reassessed, having regard to the changes in technology and design during this period.

7. Post construction usage of the wind farm site by birds and bats shall be monitored for a period of five years which shall be carried out by a suitably qualified and competent ecologist. Full details of the methodology of monitoring and data collection and reporting arrangements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

REASON: To ensure appropriate monitoring of the impact of the development on the fauna of the area.

8. (a) Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with the planning authority:

(i) A Transport Management Plan, including details of the road network/haulage routes indicated in the Environmental Impact Assessment Report including the vehicle types to be used to transport materials on and off site, and a schedule of control measures for exceptional wide and heavy delivery loads.

(ii) A condition survey of the roads and bridges along the haul routes to be carried out at the developer's expense by a suitably qualified person both before and after construction of the wind farm development. This survey shall include a schedule of required works to enable the haul routes to cater for construction-related

traffic. The extent and scope of the survey and the schedule of works shall be agreed with the planning authority/authorities prior to commencement of development.

(iii) Detailed arrangements whereby the rectification of any construction damage which arises shall be completed to the satisfaction of the planning authority/authorities.

(iv) Detailed arrangements for temporary traffic arrangements/controls on roads.

(v) A programme indicating the timescale within which it is intended to use each public route to facilitate construction of the development.

(b) All works arising from the aforementioned arrangements shall be completed at the developer's expense, within 12 months of the cessation of each road's use as a haul route for the proposed development.

Reason: To protect the public road network and to clarify the extent of the permission in the interest of traffic safety and orderly development.

9. The operation of the proposed development, by itself or in combination with any other permitted wind energy development, shall not result in noise levels, when measured externally at nearby noise sensitive locations, which exceed:

(a) Between the hours of 7am and 11pm:

i. the greater of 5 dB(A) $L_{90,10min}$ above background noise levels, or 45 dB(A) $L_{90,10min}$, at a standardised 10m height above ground level at wind speeds of 4m/s or greater

ii. 40 dB(A) $L_{90,10min}$ at all other standardised 10m height above ground level wind speeds

(b) 43 dB(A) $L_{90,10min}$ at all other times

where wind speeds are measured at 10m above ground level.

Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a noise compliance monitoring programme for the subject development, including any mitigation measures such as the de-rating of particular turbines. All noise measurements shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with Respect to Community Response," as amended by ISO Recommendations R 1996-1. The results of the initial noise compliance monitoring shall be submitted to, and agreed in writing with, the planning authority within six months of commissioning of the wind farm.

Reason: In the interest of residential amenity.

10. (a) Shadow flicker arising from the proposed development, by itself or in combination with other existing or permitted wind energy development in the vicinity, shall not exceed 30 hours per year or 30 minutes per day at existing or permitted dwellings or other sensitive receptors.

(b) A report shall be prepared by a suitably qualified person in accordance with the requirements of the planning authority, indicating compliance with the above shadow flicker requirements at dwellings. Within 12 months of commissioning of the proposed wind farm, this report shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of residential amenity.

11. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
(b) location of areas for construction site offices and staff facilities;
(c) details of site security fencing and hoardings;
(d) details of on-site car parking facilities for site workers during the course of construction;
(e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
(f) measures to obviate queuing of construction traffic on the adjoining road network;
(g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
(h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
(i) provision of construction hours, including deliveries of materials to the site;
(j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
(k) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater; and
(l) off-site disposal of construction/demolition waste.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities and safety.

12. The wind turbines including masts and blades shall be finished externally in a light grey matt colour.

Reason: In the interest of visual amenity.

13. (i) Cables within the site shall be laid underground.

(ii) The wind turbines shall be geared to ensure that the blades rotate in the same direction.

(iii) Transformers associated with each individual turbine and mast shall be located either within the turbine mast structure or at ground level beside the mast.

Reason: In the interest of visual amenity and for clarification purposes

14. Prior to the commencement of development, the developer shall agree a protocol for assessing any impact on radio or television or other telecommunications reception in the area. In the event of interference occurring, the developer shall remedy such interference according to a methodology to be agreed in writing with the planning authority, following consultation with other relevant authorities and prior to commissioning the turbines.

Reason: In the interest of residential amenity.

15. Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Subsequently, the developer shall inform the planning authority of the coordinates of the as constructed positions of the turbines and the highest point of the turbines to the top of the blade spin.

Reason: In the interest of air traffic safety.

16. On full or partial decommissioning of the wind farm or if the wind farm ceases operation for a period of more than one year, the masts and the turbines concerned, shall be removed and all decommissioned structures shall be removed within three months of decommissioning.

Reason: To ensure satisfactory reinstatement of the site upon cessation of the project.

17. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as

agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure satisfactory reinstatement of the site.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: In the interest of road safety and the proper planning and sustainable development of the area.

20. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Paul Caprani
Senior Planning Inspector
12th May 2021