



An
Bord
Pleanála

Inspector's Report

ABP-308903-20

Development	Extension of alumina extraction facility at Aughinish Alumina, Co. Limerick
Location	Aughinish Island, Askeaton, Co. Limerick
Planning Authority	Limerick City and County Council
Prospective Applicant	Aughinish Alumina Ltd.
Type of Application	SID Pre-application – whether project is or is not strategic infrastructure development.
Date of Pre-Application Meeting	19 February 2021
Date of Site Inspection	4 March 2021
Inspector	Una Crosse

1.0 Introduction

- 1.1. This report relates to pre-application consultations held with Aughinish Alumina Ltd to determine whether their proposed development to increase height/extend elements of their existing facility constitutes strategic infrastructure, as defined by the Planning and Development Act, 2000 (as amended).
- 1.2. This report describes the location and nature of the proposed development, the applicant's submission, the consultations held and the legal provisions which are relevant to the proposed development. It recommends that the proposed development constitutes strategic infrastructure, and it sets out reasons and considerations to support this conclusion.
- 1.3. As outlined by the prospective applicant, the alumina extraction plant, located on Aughinish Island in County Limerick, commenced operations in 1983 and is the largest such plant in Europe. It is permitted to produce up to 1.95 million tonnes annually through the treatment of bauxite ore and represents c.33% of the total alumina production in Western Europe. It employs 459 permanent employees and 220 long term contractors in the facility.
- 1.4. It should be noted that the Aughinish Alumina site currently operates under an IE Licence (IE Licence No. P0035-06) issued by the EPA. This licence is currently under review.
- 1.5. The prospective applicant sought closure of the pre-application process by correspondence dated 16 March 2021.

2.0 Site Location and Description

- 2.1. The subject site is located on Aughinish Island which is on the southern shore of the Shannon Estuary c.2km east of the village of Foynes in County Limerick. It is c.6km northwest of Askeaton and 30km west of Limerick City. The N69 National Secondary Route between Limerick City and Foynes runs to the south of the island as does the route of the former Limerick-Foynes railway line.
- 2.2. The site occupies a significant area of land, and I note in a previous Inspectors Report on the site that the overall landholding is stated to be c.338 hectares in area. The northern portion of the site accommodates the processing plant and includes

silos, tanks, stacks, storage buildings, plant and machinery. This area adjoins the estuary from where a jetty extends into the estuary. To the south west of the plant, a large area of land accommodates the existing bauxite residue disposal area (BRDA) within which (northeast) the salt cake disposal cell is located. The permitted borrow pit site is located to the east of the BRDA and south of the main plant with the proposed extension to same located to the east of the permitted extraction area.

3.0 The Proposed Development

3.1. Context

- 3.1.1. The prospective applicant provided a very comprehensive overview of the operations at the Aughinish Alumina site. It is stated that the plant is the largest alumina extraction plant in Europe, representing c.33% of the total alumina production in Western Europe. It is permitted to produce up to 1.95 million tonnes of alumina annually through the treatment of bauxite ore. The importation of bauxite, primarily from Africa and Brazil, and the exportation of the alumina to smelters in other countries for processing into aluminium, is undertaken by ship via a dedicated jetty located adjoining the site within the Shannon Estuary.

3.2. Elements of the Proposed Development

There are effectively three elements to the proposed development which I will address in turn:

3.2.1. Increase in Height of Bauxite Residue Disposal Area (BRDA)

Existing Context

The alumina production process results in the creation of a bauxite residue which requires disposal. To facilitate the deposition of this non-hazardous waste, a Bauxite Residue Disposal Area (BRDA) was created to the south-west of the plant and has been constructed in three phases comprising two distinct disposal areas which are in the process of merging. The current disposal area has a stated area of 183 hectares with approximately 1.5 million tonnes of bauxite residue deposited per annum.

The BRDA is designed in 'Stages' which are rock fill embankments developed in an upstream method in 2m vertical lifts with typically a 2m horizontal although at existing Stage 5 and proposed Stage 10 the horizontal width is greater at c.12.5m. Each Stage is filled with bauxite residue, 'farmed', carbonated and compacted prior to deposition of the next layer. The process of framing has been employed since 2009 and incorporates discharging the residue into internal cells within the BRDA with machinery then used to compress the surface of the residue increasing the density, reducing moisture and enhancing the drying process.

The phases are outlined as follows:

Phase 1 of the BRDA is formed from two facilities – the original Phase 1 BRDA constructed in the early 1980's covering an area of 72 hectares and the Phase 1 BRDA Extension constructed in the mid-late 1990's covering an area of 32 hectares. The design of Phase 1 was to provide a disposal area up to 2009 constructed to 'Stage 7' which equates to a central dome elevation of 27.5mOD.

Phase 2 comprises a southern extension of the Phase 1 BRDA permitted in 2007 to 'Stage 10' with maximum central elevation of 32mOD covering an area of 80 hectares. This was commissioned in 2011 and merges with the southern extent of Phase 1. This provides a disposal area for the bauxite until 2031.

The current level of the BRDA is stated to vary from 21mOD to 31mOD in Phase 1 and 8mOD to 20mOD in Phase 2.

Proposal for BRDA

It is proposed to increase the height of the BRDA to accommodate further storage of bauxite residue at the facility providing an additional 9-year capacity (rather than duration). The same methodology of 'Stages' is proposed. It is proposed that the existing BRDA can facilitate an increase in height to Stage 16 (currently permitted to Stage 10). This would provide for a permitter elevation of 36mOD and a maximum central elevation of 44mOD. The proposed development would comprise the disposal of c.1million cubic metres per year (c.1.59m tonnes per year) of the bauxite residue (totalling c.8m cubic metres or 13.52 million dry tonnes over the lifetime).

3.2.2. Vertical Extension of Salt Cake Disposal Cell

Existing Context

As part of the permitted Phase 2 BRDA a Salt Cake Disposal Cell (SCDC) was permitted within the Phase 1 extension area. The SCDC is required as when the bauxite is dissolved organic impurities enter the refinery caustic soda liquor stream and they must be removed from the process to ensure optimum product quality and efficiency. The impurities are precipitated out as a crystalline salt material made up of various sodium compounds. This salt cake is disposed within the SCDC which is a dedicated specially engineered cell within the BRDA as salt cake is a hazardous waste. The existing crest height of the SCDC is 29mOD (tying into the overall height of permitted BRDA at 32mOD).

Proposal for the SCDC

It is proposed to extend the existing SCDC vertically to a crest height of 31.25mOD with a maximum overall height of 35.5mOD when capped at cell closure. This will accommodate the disposal for an additional 22,500m³ of salt cake or c. 3 years capacity (rather than duration).

3.2.3. Extension of Permitted Borrow Pit

Existing Permission

To the east of the BRDA permission was granted in 2018 (Limerick Ref. 17/714-ABP-301011-18) for the development of a borrow pit with an extraction area of c.4.5 hectares to produce 374,000m³ of rock which is proposed to be used in the ongoing development of the BRDA. This element of the existing development has not yet commenced as it is subject to a review of the Industrial Emissions Licence by the EPA. The area of the permitted borrow pit is located within an historic pit with existing rock faces present with the permitted excavation proceeding in a northerly direction.

Proposal for the Borrow Pit.

It is proposed to extend the extraction area of the permitted borrow pit to 9.1 hectares (from the permitted 4.5ha) which would provide a total of c.820,000m³ of rock to the east of the permitted pit. The rock to be extracted will be used in the construction of the proposed BRDA. It is proposed that blasts will occur in line with that already permitted under ABP-301011-18.

4.0 Policy Context

4.1. National Planning Framework

- 4.1.1. Chapter 7 of the Framework is entitled “*Realising our Island and Marine Potential*”. Within this Chapter the Shannon Estuary and in particular the Strategic Integrated Framework Plan is included as a case Study. This Plan is specifically addressed in Section 4.3.1 below.

4.2. Regional Spatial Economic Strategy for the Southern Region

- 4.2.1. The RSES for the Southern Region came into effect in January 2020 and includes County Limerick. The RSES provides the implementation strategy for the NPF. While Aughinish Alumina is not specifically mentioned, Section 3.8 of the RSES addresses settlement networks one of which is defined as the North Kerry/ West Limerick/Shannon Estuary/Clare area. It is stated that “*the RSES recognises and supports the economic role and potential of settlements including Listowel, Abbeyfeale Newcastle West (Key Town), Kilrush as economic drivers in a potential North Kerry/West Limerick/Clare network connected with the Shannon Estuary (and Shannon Foynes Port. Their attributes extend to include the Shannon Integrated Framework Plan (SIFP) area and strategic locations identified under the SIFP as a Shannon Estuary Coastal Network. Reference to the SIFP network is also included as an example of our Region’s strategic marine and costal assets in Chapter 4*”.

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

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

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

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

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

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

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

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

and

(f) Development proposals will be subject to environmental assessment, implementation of mitigation measures outlined in applicable SEAs and AAs and feasibility studies to establish that any expansions can be achieved without adverse effects on any European sites and within the carrying capacity of the receiving environment of the ports”.

4.3. Local Policy

4.3.1. Limerick County Development Plan 2010-2016, as extended.

This Plan remains in effect and will do so until a new Development Plan for the merged Limerick City and County Council is adopted. Map 5.4 of Variation 3 (May 2015) outlines the extent of lands at Aughinish zoned for marine related industry.

Objective ED O6: relates to '*Marine Related Industry*' stating that land zoned for Marine Related Industry, "*shall provide for marine related industry and large scale uses that create a synergy with the marine use. Marine related industry shall be taken to include the use of land for industry that, by its nature, requires a location adjacent to estuarine/deep water including a dependency on marine transport, transshipment, bulk cargo or where the industrial process benefit from a location adjacent to the marine area*".

Section 5.4.2 of the Plan deals with Industry and Enterprise Policies. Objective ED 04 seeks to Safeguard Strategic Development Locations along the Estuary and states that "*it is an objective of the Council to safeguard the Strategic Development Locations at Foynes Port, Foynes Island and Aughinish Island for the sustainable growth and development of marine related industry and industrial development at Askeaton*".

It continues by stating:

"All proposed developments shall be in accordance with regional and national priorities and the SEA Directive, Birds and Habitats Directive, Water Framework Directive, Shellfish Waters Directive, Floods Directive and EIA Directive. Buffer zones shall be incorporated into proposals for developments where necessary to preserve potentially valuable habitats, for example, areas of estuary, shallow bays and inlets, mudflats, lagoon, salt marsh and woodland habitat which occur at or surrounding these Strategic Development Locations. The extent of such buffer distances shall be established in consultation with relevant statutory bodies. Detailed botanical, faunal and ornithological surveys should be undertaken in relation to proposed developments at these Strategic Development Locations to fully consider the potential effects of the development and inform how to best avoid significant ecological effects".

Objective ED O26 – refers to Mineral Extraction and Environmental Impacts where "it is the objective of the Council to:

- (a) *Minimise environmental and other impacts of mineral extraction through rigorous application of development management and enforcement requirements for quarry and other developments; and*
- (b) *In particular, to have regard to visual impacts, methods of extraction, noise levels, dust prevention, protection of rivers, lakes and other water sources, impacts on residential and other amenities, impacts on the road network (particularly with regard to making good any damage to roads), road safety, phasing, re-instatement and landscaping of worked sites”.*

Variation Number 3 to the Limerick County Development Plan 2010 – 2016, which was adopted by the elected members on the 25 May 2015 comprised the incorporation of the Shannon Integrated Framework Plan for the Shannon Estuary into the County Plan. I will address this Plan in the following section.

4.3.2. **Strategic Integrated Framework Plan for the Shannon Estuary 2013-2020**

This Plan which, as noted above was incorporated into the Limerick County Development Plan in 2015, is described as “*an inter-jurisdictional land and marine based framework to guide the future development and management of the Shannon Estuary*”. By way of introduction, it is stated that:

“The Estuary is the largest in Ireland, with a water body of some 31,500 ha, covering a distance of approximately 100km from Limerick City to Loop Head. It has a long established history of facilitating major industries, including Shannon Foynes Port at Foynes and Limerick Docks. The Port has grown to become Ireland second largest port operation, handling the largest vessels entering Irish waters, up to 200,000dwt. Shannon International Airport, ESB Moneypoint, Tarbert Power Station, NORA Fuel Storage, Aughinish Alumina have also grown and become major industrial and employment hubs within the Estuary, operating efficiently and sensitively within the estuarine environment”.

Aughinish island is designated as ‘Strategic Development Location F’ within the Plan and is specifically addressed at Section 5.4.4.6 and outlined in Figure 5.8:

It states that: “*The SIFP recognises Aughinish Island as a Strategic Development Location. It benefits from existing major berthing facilities that render it suitable for future marine related industrial development (Photo 31). Continued growth is*

anticipated including an extension to the existing berthing facilities and greater output efficiencies”.

The strategic development location of Aughinish is stated to be prioritised for marine related industry with the following development objectives of specific note:

SIFP MRI 1.2.9 – *“to safeguard the role and function of Aughinish Alumina as a key driver of economic growth in the region, encouraging its sustainable growth, expansion and diversification to facilitate greater and more competitive trade potential”.*

SIFP MRI 1.2.10 relates specifically to Aughinish Marine Related Industry and seeks *“to support and facilitate the sustainable development of marine related industry on land within this Strategic Development Location, which harnesses the potential of the deep water, large hinterland and existing infrastructure. Other sustainable land uses may be acceptable where they are considered compatible or complementary with the level of flood risk, and where the ability to deliver the primary use (marine related industry) is not compromised. Development will be subject to compliance with the criteria set out in Objective SIFP MRI 1.2”.*

4.4. European Sites

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

4.4.1. Lower River Shannon SAC – site code 002165

The qualifying interests for this site are as follows:

Priority habitats denoted by *

- Freshwater Pearl Mussel *Margaritifera margaritifera* - 1029
- Sea Lamprey *Petromyzon marinus* - 1095
- Brook Lamprey *Lampetra planeri* - 1096
- River Lamprey *Lampetra fluviatilis* - 1099
- Atlantic Salmon *Salmo salar* (only in fresh water) - 1106
- Sandbanks which are slightly covered by sea water all the time - 1110

- Estuaries - 1130
- Mudflats and sandflats not covered by seawater at low tide - 1140
- *Coastal lagoons - 1150
- Large shallow inlets and bays - 1160
- Reefs - 1170
- Perennial vegetation of stony banks - 1220
- Vegetated sea cliffs of the Atlantic and Baltic coasts - 1230
- *Salicornia* and other annuals colonizing mud and sand - 1310
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) - 1330
- Bottlenose Dolphin *Tursiops truncatus* - 1349
- Otter *Lutra lutra* - 1355
- Mediterranean salt meadows (*Juncetalia maritimi*) - 1410
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation - 3260
- *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) - 6410
- *Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) -91E0 -

Conservation Objectives for the site are dated August 2012.

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

The special conservation interests for this site are as follows:

- Cormorant (*Phalacrocorax carbo*) [A017]
- Whooper Swan (*Cygnus cygnus*) [A038]
- Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]
- Shelduck (*Tadorna tadorna*) [A048]
- Wigeon (*Anas penelope*) [A050]
- Teal (*Anas crecca*) [A052]
- Pintail (*Anas acuta*) [A054]

- Shoveler (*Anas clypeata*) [A056]
- Scaup (*Aythya marila*) [A062]
- Ringed Plover (*Charadrius hiaticula*) [A137]
- Golden Plover (*Pluvialis apricaria*) [A140]
- Grey Plover (*Pluvialis squatarola*) [A141]
- Lapwing (*Vanellus vanellus*) [A142]
- Knot (*Calidris canutus*) [A143]
- Dunlin (*Calidris alpina*) [A149]
- Black-tailed Godwit (*Limosa limosa*) [A156]
- Bar-tailed Godwit (*Limosa lapponica*) [A157]
- Curlew (*Numenius arquata*) [A160]
- Redshank (*Tringa totanus*) [A162]
- Greenshank (*Tringa nebularia*) [A164]
- Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
- Wetland and Waterbirds [A999]

Conservation Objectives for the site are dated September 2012.

5.0 Planning History

5.1. As detailed by the prospective applicant the alumina extraction plant commenced operations in 1983. There is a significant planning history on the site with the following cases providing an overview of the most significant and relevant applications to the proposed development:

5.1.1. **PL13.217976 (05/1836)** – Phase 2 of the BRDA - permission granted in January 2007 for the increase in production of alumina to 1.95 million tonnes per annum, provision of BRDA c. 80 hectares in area, increase in height of existing and permitted BRDA c.104 hectares in area and other associated works.

5.1.2. **ABP-301011-18 (17/714)** – permission granted for a borrow pit of c.4.5 hectares for the extraction of 374,000m³ of rock to facilitate the ongoing construction of the BRDA.

6.0 The Applicant's Submission

6.1. In their correspondence to the Board seeking a determination on whether the proposed development is strategic infrastructure (received 14 December 2020) the prospective applicant provided a review of the site and its operation and context as well as the planning history and planning policy context all of which is addressed elsewhere in this report. In relation to their position in respect of SID the following is summarised:

- Proposal falls under Class 3 of Seventh Schedule comprising an installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes.
- Proposed development complies with this class as the capacity of the proposed BRDA increase has an annual intake of waste on average of c.1.59m tonnes (c.1m cubic metres).
- Proposal is of strategic economic importance to the State and the region (as per Section 37A(2)(a)) as AAL has estimated value of almost €2billion and represents c.33% of total alumina production in Western Europe and is the largest alumina refinery in Europe with an annual production capacity of 1.95million tonnes.
- Bauxite, which is primarily used for the production of alumina and aluminium has been deemed, by the European Commission, to be a critical raw material in Europe which shows the importance of the aluminium value chain in Europe.
- The prospective applicant is one of region's largest employers with 459 permanent employees and 220 contractors with additional indirect jobs and c.€130 million spent in in the Irish economy with €85 spent on Irish suppliers with proposal ensuring long term future employment on the site and ensures a significant quantum of money remains in local and national economy.
- Proposal would contribute substantially to fulfilment to many objectives in NPF and RSES in force for the area (as per Section 37A(2)(b)) with the Shannon Integrated Framework Plan included as an example of an appropriate framework within both the NPF and RSES. The RSES specifically supports the Strategic Development Locations identified within the SIFP of which the subject site is one

(F) with the role of the subject development as a key driver of economic growth in the region should be safeguarded and supported.

- Proposal is not considered to have an effect on the area of more than one of planning authority although the potential for a visual impact on County Clare is outlined which it is stated will be fully assessed (as per Section 37A(2)(c)).

7.0 Consultations

7.1. One pre-application meeting was held with the prospective applicant (19th February 2021). The record is attached to the file. Three presentations made to the Board's representatives at the meeting are also attached to the file and can be summarised as follows:

- AAL outlined the key facts about the company including safety performance, environment and social governance, the aluminium industry, decarbonisation at the plant and the process which results in the bauxite residue and the construction of the BRDA and management of same.
- Biodiversity management including habitat creation and the BRDA rehabilitation were outlined as was the residue and the circular economy and innovative waste reduction including proposals for the salt cake.
- Outlined that current permitted BRDA will reach capacity by 2031 which limits the refinery with need to secure additional life strategically important.
- Presentation from Brady Shipman Martin outlined a series of photomontages outlining the proposal for the permitted restoration of the BRDA in the different stages and the proposed restoration from a series of viewpoints.
- Presentation from TPA outlined the relevant planning history, key elements of proposed development, Class 3 of the Seventh Schedule and proposals compliance with the tests for SID in Section 37A(2) of the PDA 2000, as amended.

7.2. The main matters arising at the pre-application meeting following the delivery of the presentation summarised above related to:

- The need to clearly outline the potential impacts as they relate to the different elements of the proposed development.

- The ecological survey work undertaken in relation to the site and the adjoining protected sites.
- The requirement to undertake a robust NIS supported by surveys.
- Consideration of cumulative impacts in the EIAR.
- Clarity in respect of reference to capacity requirements of the elements of the proposal where this is expressed in years/duration.
- Proposal for the additional capacity in the salt cake disposal cell in view of proposals to eliminate the need to dispose of this waste.

The prospective applicant responded to the record by email dated 4 March 2021, which is attached to the file with a number of minor changes to the record which referred to a number of clarifications in relation to the attendees at the meeting and a number of clarifications in respect of references to elements of the proposed development.

8.0 Legislative Provisions

8.1. Strategic Infrastructure Development

8.1.1. Section 37A

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

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

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

(b) the development would contribute substantially to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and

economic strategy in force in respect of the area or areas in which it would be situate,

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

8.1.2. **Seventh Schedule**

The Seventh Schedule of the Planning and Development Act, 2000, as amended sets out the Infrastructure Developments for the purposes of Sections 37A and 37B. Environmental Infrastructure is included within Class 3 of the Seventh Schedule and includes: Development comprising or for the purposes of: *“An installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes”.*

8.2. **Environmental Impact Assessment**

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

8.3. **Appropriate Assessment**

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

9.0 **Assessment**

9.1. **Strategic Infrastructure**

9.1.1. There are two matters which require consideration in respect of whether the proposed development comprises Strategic Infrastructure. Firstly, whether the proposal comprises a development specified in the Seventh Schedule and secondly

if it does comprise a development specified in same whether it falls within one or more of the criteria set out in Section 37A(2). I will address each in turn.

9.1.2. **Seventh Schedule**

The prospective applicant proposal comprises a development which falls within the following part of Class 3 of the Seventh Schedule: an installation for the disposal, treatment or recovery of waste with a capacity for an annual intake greater than 100,000 tonnes. The prospective applicant emphasises 'disposal' in their submission. Given that the development proposes the annual disposal of c.1.59 million tonnes of bauxite residue (waste) to the existing Bauxite Residue Disposal Area, it is considered that the development would comprise a Seventh Schedule development as it would exceed the threshold of 100,000 tonnes in Class 3 of the Seventh Schedule. For the Board's information I would note that the permission process for previous applications for the BRDA including the application for Phase 2 of the BRDA (Ref. 05/1836/PL13.217976) was undertaken prior to the commencement of the Strategic Infrastructure Act 2006 and therefore was considered under Section 34 of the Planning and Development Act.

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

I will address the tests in turn.

Section 37A(2)(a)

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

As outlined by the prospective applicant, the Aughinish Alumina facility produces c.33% of the of the total alumina produced in Western Europe with the prospective applicant a critical link in the aluminium supply and manufacturing process. In addition to the strategic economic importance of the company in the production of alumina within the European Context, the prospective applicant is a significant employer within the region and contributes significantly to the local economy. I consider that the proposal is clearly of strategic economic importance to the State and the region in which it would be situate and therefore would meet this test.

Section 37A(2)(b)

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

As detailed by the applicant and as outlined in the local policy section above, the subject site is designated as a strategic development location (F) in the Shannon Integrated Framework Plan which is outlined as a case study/example in both the NPF and the RSES for the Southern Region. Two specific Regional Policy Objectives are considered to be specifically relevant.

Part (a) of Regional Policy Objective 79 relates to the Shannon Estuary and Other Harbour Plans and states that the RSES recognises the national and international importance of the Shannon Estuary and that it is an objective to support and promote the delivery of the Strategic Development Locations as set out in the SIFP for the Shannon Estuary subject to the implementation of mitigation measures outlined in the SEA and AA undertaken on SIFP and zoned in the Local Authority Development Plans. In addition, Regional Policy Objective 142 refers to ports with the objective *to strengthen investment to deliver actions under National Ports Policy and investment in sustainable infrastructure projects that with Part (e) of same, seeking to support the sustainable development of the 9 strategic development locations adjoining sheltered deep-water in line with the recommendations of the SIFP for the Shannon Estuary and subject to the implementation of mitigation measures outlined in the SEA and AA undertaken on the SIFP.*

I consider that as the subject site is a designated strategic development location within the SIFP that it can be clearly determined that development of the kind proposed on this site would contribute substantially to the fulfilment of the relevant objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate. I consider that the proposed development would meet this test.

Section 37A(2)(c)

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

I would concur with the applicant's contention that the proposed development would not have a significant effect on the area of more than one planning authority but

acknowledge their reference to the potential visual impact on County Clare to the north of the estuary. I also note that it is proposed to address the potential visual impact of the proposal on County Clare in the visual assessment to be undertaken. Therefore, while the visual impact on an adjoining planning authority will require examination, I do not consider that the proposal would have a significant effect on the area of more than one planning authority and therefore I do not consider that the proposal meets this test.

The proposed development, therefore, meets two of the three tests in **Section 37A(2)** and would therefore comprise strategic infrastructure.

9.2. Environmental Impact Assessment

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

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

- Part 2 Class 2(b) - Extraction of stone, gravel, sand or clay, where the area of extraction would be greater than 5 hectares.

The proposal seeks to extend the proposed borrow pit by c.4.5 hectares which would create an overall borrow put of c.9 hectares.

- Part 2 Class 11(b) - Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.

The proposal seeks the disposal of c. 1.5 million tonnes of bauxite residue per annum which would exceed this threshold.

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

9.3. **Appropriate Assessment**

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

9.4. **Prescribed Bodies**

- 9.4.1. In view of the scale, nature and location of the proposed development, as described in this report, it is recommended that the prospective applicant should consult with the prescribed bodies listed in the attached Appendix in respect of any future application for approval. I note that the route of the former Limerick-Foynes railway line is located to the south of the island and for this reason I propose to add the relevant rail related bodies.

9.5. **Conclusion**

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

10.0 **Recommendation**

Having regard to the provisions of the Planning and Development Act, 2000, as amended, and the nature of the development as set out in the plans and particulars submitted, which comprises an increase in height of the bauxite residue disposal area, a vertical extension of the salt cake disposal cell and an extension of the permitted borrow pit at Aughinish Island in County Limerick, it is considered that the proposed development falls within the scope of Section 37A(2)(a) and (b) of the Planning and Development Act, 2000 (as amended). Accordingly, the proposed development would be strategic infrastructure within the meaning of the Act and any application for approval must therefore be made directly to the Board under Section

37E and should be accompanied by an Environmental Impact Assessment Report and a Natura Impact Statement.

Una Crosse

Senior Planning Inspector

March 2021

Appendix

Prescribed Bodies

Minister for Housing, Local Government and Heritage
Minister for Environment, Climate and Communications
Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media
Minister for Agriculture, Food and the Marine
Limerick City and County Council
The Southern Regional Assembly
Environmental Protection Agency
Transport Infrastructure Ireland
Fáilte Ireland
An Taisce
The Heritage Council
Inland Fisheries Ireland
Irish Water
Coras Iompair Eireann
Commission for Railway Regulation
Railway Safety Commission