



An  
Bord  
Pleanála

## Inspector's Report ABP-312876-22

### Development

Section 146B request for alteration to planning permission for 29 no. turbines relating to flexibility of rotor diameter with maximum permitted tip heights not affected

### Location

Yellow River Wind Farm, north of Rhode, Co. Offaly

### Planning Authority

Offaly County Council

### Applicant(s)

Green Wind Energy (Wexford) Ltd.

### Type of Application

s.146B amendment to Strategic Infrastructure Development (SID)

### Date of Site Inspection

1<sup>st</sup> April 2022

### Inspector

Anthony Kelly

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## 1.0 Introduction, Site Location, and Description

- 1.1. This report relates to a request by Green Wind Energy (Wexford) Ltd. to seek an alteration to a previously permitted wind farm development (Reg. Ref. 19.PA0032) submitted directly to the Board, and which was subsequently altered by s146 request Reg. Ref. ABP-307357-20. The current proposed alteration seeks to identify specific turbine rotor diameter and hub height dimensions, while remaining within the previously permitted maximum tip heights of between 156 metres and 166 metres. The permitted wind farm is known as Yellow River Wind Farm.
- 1.2. The permitted 29 no. turbine Yellow River Wind Farm covers a wide rural area north of Rhode village in north east Co. Offaly. Land use in the vicinity of the turbines generally comprise a mixture of agriculture, bogland, and forestry, with some quarrying west of the R400 Regional Road. The source of the Yellow River is in the western area of the wind farm and it runs in a general west – east direction through the wind farm area.
- 1.3. Turbines (T) 1-12 are located west of the R400, north west of Rhode village. Ts 13-15 are located relatively close to the north east of the village, approx. 900 metres at the closest point. Ts 16-22 are located north and south of Yellow River further north east of Rhode. Ts 24-32 are located in the north east corner of the county in close proximity to the Westmeath and Meath county boundaries. The turbines are, collectively, widely dispersed over an irregularly shaped area with maximum distances of approx. 10kms west (T1) to east (T19) and approx. 6kms north (T32) to south (T13). (Please note that turbines T20, T23, and T28 were omitted from the original planning application though the turbine reference numbers throughout the documentation and this report have not altered i.e. reference is made to T30-T32 despite there only being 29 no. turbines).
- 1.4. The application has been submitted by AOS Planning (AOS) on behalf of the applicant. The application is accompanied by:
  - a ‘Section 146B Planning Report’ prepared by AOS and dated February 2022,
  - an ‘Environmental Report’ prepared by Jennings O’Donovan & Partners Ltd. dated February 2022, and,
  - a ‘146B Amendment Application Report for Appropriate Assessment Screening’ prepared by BioSphere Environmental Services and dated February 2022.

## 2.0 Legislative Basis

- 2.1. Section 146B(1) of the Planning & Development Act, 2000 (as amended), provides that on the request of any person who is carrying out or intending to carry out a SID, the Board may alter the terms of the development the subject of a planning permission, approval or other such consent granted under the Act.
- 2.2. Section 146B(2)(a) requires the Board to decide whether the making of the alteration to which the request relates would constitute a material alteration of the terms of the development concerned. Under section 146B(2)(b), the Board may invite submissions prior to making this decision.
- 2.3. Under section 146B(3)(a), if the Board decides that the making of the alteration would not constitute the making of a material alteration, then it shall alter the permission/approval accordingly. If it determines under section 146B(3)(b) that it would constitute the making of a material alteration, it shall, under (3)(b)(i) require the requester to submit information specified in schedule 7A to the Planning & Development Regulations, 2001 (as amended), unless the requester has already provided such information or an Environmental Impact Assessment Report (EIAR); and under (3)(b)(ii) the Board shall determine whether to (I) make the alteration, (II) make an alteration that would be different from that to which the request relates (but not one which is a more significant change to the terms of the development than that which would be represented by the latter alteration) or (III) refuse to make the alteration.
- 2.4. Sections 146B(3A) and (3B) of the Act outline requirements for the information to be submitted by the requester under section 146B(3)(b)(i). Section 146B (4) requires that before making a determination under subsection (3)(b)(ii), the Board shall determine whether the extent and character of the alteration requested or any alternative alteration it is considering would be likely to have significant effects on the environment. Section 146B(4A) requires that on receipt of the information referred to in subsection (3)(b)(i), the Board would make its determination within 8 weeks unless exceptional circumstances prevail. Section 146B(5)(a) requires that where the Board determines that the making of either kind of alteration referred to in subsection (3)(b)(ii) is not likely to have significant effects on the environment, it shall proceed to make a

determination or, (5)(b), where it is determined the alterations are likely to have such effects, the provisions of section 146C (preparation of an EIAR) shall apply.

- 2.5. Section 146B(6) of the Act requires that if in a case to which subsection (5)(a) applies, the Board makes a determination to make an alteration of either kind referred to in subsection (3)(b)(ii), it shall alter the planning permission, approval or other consent accordingly. Section 146B(7)(a) outlines considerations the Board shall have regard to when making a determination under subsection (4). Section 146B(7A) provides that where the determination of the Board under subsection (4) is that the alteration under consideration would not be likely to have significant effects on the environment and the applicant has provided a description of the features of the alteration concerned and the measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the alteration concerned, the Board shall specify such features, if any, and such measures, if any, in the determination. Section 146B(8) relates to making information available for inspection and for inviting submissions or observations.

### **3.0 Planning History**

- 3.1. The planning history of the subject development is:
- 3.1.1. ABP Reg. Ref. 19.PA0032 – In 2014 the Board granted a 10 year permission for a SID wind farm comprising 29 no. turbines (reduced from 32 no. during the application) with a hub height of up to 110 metres, a rotor diameter of up to 113 metres, and an overall height of up to 166 metres, together with a 110kV substation and other associated development. This has not commenced to date.
- Condition 1(b) required turbines T1-T12 and T26-T32 (exclusive T28) to have a maximum tip height of 166 metres, and turbines T13-T25 (exclusive T20 and T23) to have a maximum tip height of 156 metres.
- 3.1.2. ABP Reg. Ref. ABP-307357-20 – In 2020 the Board granted permission to alter the terms of the permitted SID to increase the blade length to the permitted turbines while remaining within the previously permitted maximum tip height of between 156 and up to 166 metres.

The alterations primarily comprised increasing the blade lengths from 113 metres to 126 metres, reducing the hub height accordingly and retaining the permitted layout and tip height of 156 metres (11 turbines) and 166 metres (18 turbines). In effect, the rotor diameter would increase by 13 metres and the hub height would be reduced by 7 metres.

#### **4.0 Proposed Alteration**

- 4.1. The 2014 permission granted permission for 29 no. turbines. T1-T12 and T26-T32 (excluding T28) had maximum tip heights of 166 metres and T13-T25 (excluding T20 and T23) had maximum tip heights of 156 metres. All turbines had maximum rotor diameters of 113 metres. The 2020 alteration permission 'increased the overall rotor diameter of the turbines up to 126 metres. The extension of the rotor diameter also involved lowering the hub height by 7m such that the tip height permitted in the 2014 Permission was unaffected', as per the applicant's Section 146B Planning Report.
- 4.2. Page 2 of the applicant's Section 146B Planning Report states that this current application seeks that a rotor diameter of either 117 metres or 126 metres be permitted. This 'will provide the applicant with the flexibility to consider and develop one of a selection of turbine rotor diameter and hub height dimensions ... whilst remaining within the maximum turbine tip heights permitted in the 2014 Permission, and the overall rotor diameter maximum of 126m permitted by the 2020 Alteration'. It is also stated on page 2 that 'The wind farm layout is not to be altered, nor is the consented ancillary infrastructure affected'. The proposed alteration(s) are set out in table 1.1 of the applicant's Section 146B Planning Report. Rotor diameters of either 117 metres or 126 metres are sought, at a corresponding hub height which ensures the maximum permitted tip heights will not be exceeded. Page 14 of the applicant's report states the application 'seeks certainty about altering rotor diameter and hub height dimensions to optimise power yield at each turbine. These will involve rotor diameter dimensions of either 117m or 126m with hub height dimensions of either 91m or 106m, 93m or 103m, and 97.5m or 107.5m'.

## 5.0 Requester's Submission and Case for Alteration

The following is a summary of the main issues raised by the requester in the three reports submitted in support of the proposed alteration:

### 5.1. Section 146B Planning Report

- Table 1.1 provides an outline of the previously permitted and altered turbine dimensions and the turbine dimensions proposed in this alteration request.
- Section 2 provides a background of the applicant and a summary of the planning history of the wind farm. Technological developments are also referenced. The determination of the Board in relation to specific rotor diameter and hub height dimensions is being sought to ensure that the most efficient and optimal turbines can be installed.
- The national, regional, and local planning context is set out in section 3. This strongly favours renewable energy development. The alteration is fully in keeping with goals and targets to decarbonise the economy.
- The applicant does not consider the proposed alteration would constitute a material alteration of the terms of the original SID. This assertion is guided by similar precedent cases, the original EIAR, the outline of the EIA process undertaken by the Board, planning policy context, and the nature of the permitted development and proposed alteration. The nature of the request, representing a combination of the maximum hub heights granted in 2014 and the maximum rotor diameter granted in 2020, is very minor.
- Three precedent examples are referenced: Cloncreen Wind Farm, Co. Offaly, Meenbog Wind Farm, Co. Donegal, and Esk Wind Farm, Co. Cork. These are considered in the context of the proposed alteration.
- The findings and conclusion of the Environmental Report are briefly summarised with emphasis on sections identified as having potential implications for the alterations e.g. shadow flicker, landscape and visual impact, and biodiversity.

## 5.2. Environmental Report

- 5.2.1. The report sets out the environmental effects, if any, of the proposed alteration compared to the 2020 alteration. The original EIAR was based on turbines having a rotor diameter of no greater than 113 metres, a hub height of no greater than 110 metres, and an overall blade tip height of no greater than 166 metres. The 2020 alteration was based on impacts associated with a rotor diameter of 126 metres and reduced hub heights such that the overall blade tip height did not exceed those permitted in the original permission. The current proposal is based on turbine models using either 117 metres or 126 metres rotor diameter, the 126 metres option being 'the same as that assessed in the 2020 Alteration'. Three specific model configurations are proposed: N117 standard, N117 bespoke, or V126 bespoke. One of these models will be used throughout the entire project.
- 5.2.2. The residual environmental impacts for the 2020 alteration i.e. 126 metres diameter as opposed to 113 metres, 'were assessed as being similar to those predicted in the Original EIAR with no changes predicted to the significance of any of the environmental effects'. The Board concluded the changes would not be material.
- 5.2.3. Table 3.1 sets out a review and check if the effects of the proposed turbines have already been considered in the Original EIAR and 2020 Environmental Report. A number of areas are considered i.e. post-planning stages, human beings, flora, fauna and fisheries, soils and geology, water, air quality, noise, shadow flicker, landscape, material assets, cultural heritage, and interactions of the foregoing. Two areas are subject of additional consideration: biodiversity and noise.
- 5.2.4. Biodiversity – In the original EIAR the terrestrial habitats were rated, at most, as of local importance (higher value). Since then wintering swan surveys have been carried out in all winters to 2020/21, other than 2014/15, and to January 2022 for the 2021/22 winter. Habitats have changed little, though the Kilmurray quarry works west of the R400 at Derryarkin have expanded, which has changed swan usage of fields. Swans roost mainly at night, as before, at the Roadstone quarry pond, but may also use the recently created Kilmurray quarry ponds. Whooper swan numbers vary but have been consistently over 100 no. since 2013/14.



- 5.2.5. The three turbine options are not predicted to have any direct or indirect impacts on habitats, flora, or terrestrial mammals in addition to that in the original EIAR or 2020 alteration.
- 5.2.6. Bat species are normally low fliers i.e. <10 metres, except Leisler's bat. This species is potentially at risk of coming into contact with revolving blades. The original EIAR acknowledged some bat mortality may occur and mitigation was recommended. The proposed turbines will result in a change to ground clearance. The 126 metres diameter rotor, assessed in 2020, has lower ground clearances than the 117 metres diameter rotors.
- 5.2.7. Whooper swan was the project area bird species considered most sensitive in the original EIAR, though high levels of avoidance of collision with turbines could be expected. This is in the vicinity of T1-T7 west of the R400. They typically fly at low altitude between feeding and roosting sites. The original EIAR considered this risk of collision to be low. The 126 metres rotor diameter has a lower ground clearance than the 117 metres rotor diameter and was assessed in the 2020 alteration. Mitigation as already recommended will minimise risk.
- 5.2.8. Noise – The proposed turbines are designed to meet the noise conditions as consented by condition 10 of 19.PA0032. Original and new receptors (up to the 2020 alteration) were identified. Various noise emission levels for the proposed turbines are set out. Turbine blades will be fitted with serrated trailing edges which mitigate noise emission.
- 5.2.9. In terms of operational noise assessment, 'At all receptors, the predicted noise levels associated with the use of a V126 turbine are equal to, or below the lower limit of 43 dB(A) L90. When the predicted levels do not exceed 43 dB(A) L90, then it does not exceed the consented development limits given by ABP; the greater of 43 dB(A) L90 or 5 dB(A) above background levels so compliance is met. For N117 turbines, the predicted noise levels will be lower than for the V126'.
- 5.2.10. Three appendices are attached: Noise, Shadow Flicker, and Landscape and Visual.

### 5.3. 146B Amendment Application Report for Appropriate Assessment Screening

- The wind farm was subject of appropriate assessment (AA) under 19.PA0032 and was approved.

- An ecological description of the area as contained in the original EIAR is set out. Inter alia, otter, six bat species, whooper swan, golden plover, and lapwing were identified. Surveys have been carried out for wintering swans, badgers, and nesting lapwing since the original assessments were carried out. Kilmurray quarry works have expanded in the area west of the R400 with a change in field usage by the swans. Whooper swan counts are outlined in table 2.3. They winter entirely in the area though neither of the SPAs in the screening assessment has whooper swan as a special conservation interest.
- Eight European sites within 15km are identified and set out in table 2.4. There are six SACs and two SPAs. The closest is Raheenmore Bog SAC approx. 4km south west of the site. Lough Ennell is the closest SPA, approx. 10km to the north east. Drainage from the project is to the Boyne catchment. The River Boyne and River Blackwater SAC and SPA (kingfisher being the sole special conservation interest) are to the north east.

For the five SACs other than the River Boyne and River Blackwater SAC, 'it can be demonstrated ... with full scientific certainty that there is no Pathway between the Source (i.e. project area) and Receptor (European site)'. As the proposed alteration 'does not require any additional mitigation measures to maintain local water quality, it can be concluded with scientific certainty that the proposed project could not have impacts, direct or indirect, on the conservation objectives of the River Boyne and River Blackwater SAC'.

Lough Ennell SPA is selected for three waterbird species as well as wetlands. Given the distance, absence of hydrological linkage, and the fact the species would not be expected in the site habitats 'it can be concluded with scientific certainty that the SPA can be screened out. As kingfisher 'could not in any way be affected by the proposed alteration' the River Boyne and River Blackwater SPA can be screened out.

- An analysis of 'in-combination' effects are considered in section 2.6. Mount Lucas and Cloncreen wind farms are noted and 'the turbine configuration is not expected to result in an in-combination effect when considered with these two wind farm projects'.

- The report concludes that the proposed alteration ‘will not result in any additional impact on the integrity or Qualifying Interests/Special Conservation Interests of any relevant European site, either on their own or in-combination with other plans or projects, in light of their conservation objectives’. A Stage 2 AA is not required.

## **6.0 Correspondence**

6.1. The Board informed Offaly County Council on 28<sup>th</sup> February 2022 of the request received and enclosed a copy of the request which, it was advised, may be made available for public inspection at the offices of the local authority. The planning authority was not invited to make any submission at this stage.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. As noted in section 2 above, section 146B of the Planning & Development Act, 2000 (as amended) is a two-stage process. The first stage is for the Board to consider whether or not the proposed alteration would constitute ‘the making of a material alteration of the terms of the development concerned’ under section 146B(2)(a). If the decision is that the making of the alteration would not constitute the making of a material alteration, then the Board shall alter the planning permission under section 146B(3)(a).

7.1.2. The second stage only arises if the Board decides that the proposed alteration would constitute such a material alteration under section 146B(3)(b). Clearly, if the outcome of stage one is a decision that the proposed alteration would not constitute a material alteration, then there is no basis for addressing the matters referred to in stage two.

7.1.3. In deciding in the first instance on this issue of materiality, the Board has the discretion to invite submissions from any person or class of persons as the Board considers appropriate.

## 7.2. Consideration of Materiality

- 7.2.1. The first consideration in relation to this request to alter the terms of 19.PA0032 is to determine if the making of the alteration would constitute the making of a material alteration of the terms of the wind farm development as granted. The issue that requires assessment is whether the proposed turbine configuration(s) is materially different compared with that which was the subject matter of the Board's previous assessment.
- 7.2.2. The development as granted under 19.PA0032 comprised 29 no. turbines (reduced from 32 no. turbines through the planning process) with a hub height of up to 110 metres, a rotor diameter of up to 113 metres, and an overall tip height of 156 metres (11 turbines) and 166 metres (18 turbines). Under a subsequent s146B application, ABP-307357-20, the Board altered the terms of the permitted SID to increase the blade length to the permitted turbines from 113 metres to 126 metres, while remaining within the previously permitted maximum tip height of 156 metres and 166 metres. In effect, the rotor diameter would increase by 13 metres and the hub height would be reduced by 7 metres.
- 7.2.3. For clarity, a table similar to table 1.1 of the applicant's Section 146B Planning Report is reproduced below illustrating the permitted SID, the 2020 alteration, and the proposed alteration. Relevant drawings are contained in both the applicant's Environmental Report and Report for AA Screening as figures 2.1-2.4.

Turbine Reference Nos.	Rotor Diameter (m)	Hub Height (m)	Tip Height (m)	Permission/Alteration
T1-T12	113	110	166	2014 Permission
T13-T25	113	100	156	
T26-T32	113	110	166	
T1-T12	126	103	166	2020 Alteration
T13-T25	126	93	156	
T26-T32	126	103	166	
T1-T12	126	103	166	2022 Alteration Request
T13-T25	126	93	156	
T26-T32	126	103	166	
T1-T12	117	107.5	166	
T13-T25	117	97.5	156	
T26-T32	117	107.5	166	
T1-T12	117	106	164.5	
T13-T25	117	91	149.5	
T26-T32	117	106	164.5	

7.2.4. Any of the three proposed alteration options would result in the turbines having a rotor diameter within the range of 113 metres – 126 metres permitted and a tip height that does not exceed the respective maximum heights cited in condition 1(b) of the original permission. The only area where the proposed dimensions would diverge from the range already assessed and permitted would be in T13-T25 of one of the 117 meter rotor diameter options where the hub height would be 91 metres, two metres lower than the 93 metres approved under the 2020 alteration. This can be considered very minor and acceptable, particularly in the context of the scale of the development.

7.2.5. I note that the development description for the original SID application referred to, inter alia, hub heights of up to 110 metres and an overall height of up to 166 metres. At further information the dimensions of some turbines were reduced to 100 metres hub

heights and 156 metres tip heights. None of these dimensions would be breached by any of the proposed options. It also referred to a rotor diameter of up to 113 metres. Under ABP-307357-20, an alteration was permitted to 'Increase the blade length to the permitted turbines while remaining within the previously permitted maximum tip height of between 156 and up to 166 metres'. This primarily comprised increasing the blade lengths/rotor diameter from 113m to 126m, reducing the hub heights accordingly. The rotor diameters of the proposed options are all consistent with the 113 metres – 126 metres parameters established under the original SID and the subsequent alteration. Therefore, I consider the proposed options would be consistent with the two previous permissions relating to the Yellow River Wind Farm development.

7.2.6. In addition, the applicant refers to Cloncreen Wind Farm, Co. Offaly (ABP-303313-18), Meenbog Wind Farm, Co. Donegal (ABP-303729-19), and Esk Wind Farm, Co. Cork (ABP Reg. Ref. 04.RP.2104). These address issues similar to those under consideration in this application.

7.2.7. Having regard to the foregoing, I am of the opinion, having considered the proposed alteration options in the context of the permitted and previously altered wind farm, that the Board would not have determined 19.PA0032 or ABP-307357-20 differently, or attached any different conditions, had the current options been proposed at those stages. The hub heights, rotor diameters, and tip heights generally remain within the envelopes established. I am satisfied that the proposed alteration options would not constitute the making of a material alteration to the permitted Yellow River Wind Farm, subject to consideration of environmental impact and AA as considered below.

### **7.3. Environmental Impact / Environmental Report**

7.3.1. The Environmental Report accompanying the current request assesses the impact of the proposed alteration options relative to the impacts identified in the original EIS/EIAR and the previous s146B application. I note initially there would be no alteration to the layout of the wind farm or to turbine locations. Construction practices, traffic movements, commissioning and operation etc. would not be affected by the alternative turbine types. The relevant impacts outlined and my consideration of them is as follows:

7.3.2. Human Beings – The applicant states the likely significant effect for 126 metres rotor diameter turbines was assessed in 2020 as being the same as for the original rotor diameter. A 117 metres rotor diameter is within the envelope of the original and previous alteration decisions. I am satisfied that there would be no additional significant impacts on human beings from the proposed alteration options.

7.3.3. Flora, Fauna and Fisheries (Biodiversity) – The 126 metres diameter is the largest swept path produced by the turbines and these have been assessed in the 2020 application as not having any significant impact on birds in the vicinity of T1-T7. Ground clearances would be higher for the 117 metres rotor diameter turbines.

The applicant has submitted updated whooper swan survey results since the 2020 alteration application and has referenced some feeding ground and roosting area changes. While of interest, I do not consider the proposed turbine options would have any effect on this above those already consented to in 2014 and 2020.

The applicant considers the possible use of any of the turbine options ‘would not have any impacts, direct or indirect, on the local habitats, vegetation, or flora in addition to those which had been discussed for the Original EIAR as assessed in the 2020 Environmental Report’.

I am satisfied that there would be no additional impacts on biodiversity from the proposed alteration options.

7.3.4. Soils and Geology – I do not consider the proposed alterations would have any impact on soils and geology above those already considered in 2014 and 2020.

7.3.5. Water – I do not consider the proposed alterations would have any impact on water above that already considered in 2014 and 2020.

7.3.6. Air Quality – I do not consider the proposed alterations would have any significant impact on air quality above that already considered in 2014 and 2020.

7.3.7. Noise – The applicant considers that, when compared with the 126 metres rotor diameters used in the 2020 Environmental Report and the 113 metres rotor diameters used in the original EIAR, the 117 metres rotor diameter ‘now under consideration ... together with the hub height proposals, is not considered to change the significance of the environmental effect’.

Section 5 of the submitted Environmental Report details noise issues. Condition 10 of the SID permission sets out noise level limits and the report states the predicted noise levels are equal to, or below, the applicable limits. Additional information in this regard is contained in appendix A.

Having regard to the information submitted with the application I consider the proposed alteration options would not breach the noise limits imposed in the SID permission and I am satisfied that there would be no additional significant noise impacts.

7.3.8. Shadow Flicker – The applicant notes that the change from the turbine option in the original EIAR to the 126 metre rotor diameter model in 2020 was not considered to change the significance of the environmental effect. The 126 metres rotor diameter model ‘has the potential to generate most shadow flicker at the largest number of sensitive receptors’ whereas the 117 metres rotor diameters options will have a slightly lower effect.

7.3.9. As the 126 metres rotor diameter turbine was considered acceptable in the 2020 alteration, I do not consider the shorter 117 metres diameter turbines would have any additional effect. I also note condition 11(a) states that shadow flicker arising from the proposed development shall not exceed 30 hours per year or 30 minutes per day at existing or permitted dwellings or other sensitive receptors. Condition 11 (b) states that a report shall be prepared by a suitably qualified person within twelve months of the commissioning of the wind farm indicating compliance with these shadow flicker requirements.

I am satisfied that there would be no additional significant shadow flicker impacts from the proposed turbine options.

7.3.10. Landscape – The 126 metres rotor diameter turbine option was considered acceptable in the 2020 alteration. Therefore I do not consider that the reduced 117 metres rotor diameter options would have any greater impact on the landscape.

7.3.11. Material Assets – I do not consider the proposed alterations would have any impact on material assets above those already considered in 2014 and 2020.

7.3.12. Cultural Heritage – I do not consider the proposed alterations would have any impact on cultural heritage above that already considered in 2014 and 2020.



7.3.13. Interactions – I am satisfied that there would be no significant additional interactions as a result of the alterations.

7.3.14. Having regard to the foregoing, I do not consider the proposed alteration would have any environmental impact above those previously considered in the 2014 and 2020 applications.

#### **7.4. Appropriate Assessment Screening**

7.4.1. Eight European sites have been identified by the applicant within a 15km radius of the wind farm site, which I consider a more than reasonable radius given the nature of the proposed alteration. These are identified in table 2.4 of the Report for Appropriate Assessment Screening. Five of these, all SACs, were initially screened out because of the absence of hydrological or other physical links, and distances between the turbines and the respective sites, and I concur with this. The remaining three sites, River Boyne and Blackwater SAC (site code 002299), River Boyne and Blackwater SPA (site code 004232), and Lough Ennell SPA (site code 004044) should be further considered.

7.4.2. Given the separation distances between the project site and the aforementioned three European sites (approx. 10km to Lough Ennell SPA to the north west and approx. 11km to the River Boyne and River Blackwater SAC and SPA to the north east), the respective sites' conservation objectives, the fact that no additional project mitigation measures are required to maintain local water quality, and, in particular, having regard to the specific nature of the alterations under consideration in this application i.e. limited dimension alterations to already permitted turbines, I am satisfied that these sites can be screened out.

7.4.3. The applicant has submitted detail in relation to a population of whooper swan, an Annex I listed species known to winter in the wind farm site area at Derryarkin (in the vicinity of T1-T7). I note that whooper swan is not a species which is part of the qualifying interests of either Lough Ennell SPA or the River Boyne and Blackwater SPA. I do not consider the proposed turbine options would have any adverse effect on whooper swan above those already consented to in 2014 and 2020.

7.4.4. Having considered the Board's determination on AA on 19.PA0032 and ABP-307357-20, the nature, scale, and extent of the alteration proposed relative to the development

subject of the previous applications, and the information on file, I consider it reasonable to conclude that the alteration proposed, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European sites in view of the conservation objectives for those sites.

## **7.5. Concluding Comments on Materiality**

- 7.5.1. I am of the opinion, having fully considered the proposed alteration and the development as granted under 19.PA0032 and altered under ABP-307357-20, the environmental and appropriate assessment implications of the proposed alternatives, and the conditions attached to the SID permission, that the Board would not have determined the proposal differently had the turbine configuration and blade lengths now proposed formed part of those applications. In that regard, I consider it reasonable to conclude that the proposal subject of this request does not constitute the making of a material alteration of the development as granted permission under 19.PA0032 and altered under ABP-307357-20.

## **7.6. Public Consultation**

- 7.6.1. I have considered the provisions of section 146B(2)(b) which provides for, at the Board's discretion, the invitation of submissions from persons, including the public. Having considered the nature, scale, and extent of the proposed alteration, the information on file, and the nature, scale, and extent of the development granted under 19.PA0032 and ABP-307357-20, I am of the opinion that the inviting of submissions from the public in this instance is not necessary and is not required for the purposes of the Board in determining the matter.
- 7.6.2. Should the Board not concur with my recommendation and determine that the making of the proposed alteration is material, I consider the documentation accompanying the request complies with the requirements of section 146B(3)(b)(i) of the Planning & Development Act, 2000 (as amended).

## 8.0 Recommendation

- 8.1. I recommend that the Board decides that the making of the alteration subject of this request does not constitute the making of a material alteration of the terms of the developments as granted permission under 19.PA0032 and ABP-307357-20.

(Draft Order for the Board's consideration provided below).

## 9.0 Draft Order

REQUEST received by An Bord Pleanála on the 25<sup>th</sup> February 2022 from Green Wind Energy (Wexford) Ltd. c/o AOS Planning, 1<sup>st</sup> Floor, 24-26 Ormond Quay Upper, Dublin 7, D07 DAV9, under section 146B of the Planning & Development Act, 2000 (as amended), to alter the terms of a strategic infrastructure development described as the Yellow River Wind Farm comprising 29 turbines and all associated works, permitted under ABP Reg. Ref. 19.PA0032.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 3<sup>rd</sup> day of June, 2014,

AND WHEREAS the Board has received a request to alter the terms of the development, the subject of the permission,

AND WHEREAS the proposed alteration is described as follows:

Identify specific turbine rotor diameter and hub height dimensions while remaining within the previously permitted maximum tip height of between 156 and up to 166 metres,

AND WHEREAS the Board decided, in accordance with section 146B(2)(b) of the Planning & Development Act 2000, (as amended), not to invite submissions or observations from the public in relation to whether the proposed alteration would constitute the making of a material alteration to the terms of the development concerned,

AND WHEREAS the Board decided, in accordance with section 146B(2)(a) of the Planning & Development Act 2000, as amended, that the proposed alteration would

not result in a material alteration to the terms of the development, the subject of the permission,

AND WHEREAS having considered all of the documents on file and the Inspector's report, the Board considered that the making of the proposed alteration would not be likely to have significant effects on the environment or on any European Site,

NOW THEREFORE in accordance with section 146B(3)(a) of the Planning & Development Act, 2000 (as amended), the Board hereby alters the above-mentioned decision so that the permitted development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on the 25<sup>th</sup> day of February 2022 for the reasons and considerations set out below.

### **Reasons and Considerations**

Having regard to:

- (i) the nature and scale of the wind farm development permitted under An Bord Pleanála Reference No. 19.PA0032 for this site, which permitted 29 turbines with an overall tip height of between 156 – 166 metres,
- (ii) the examination of the environmental impact, including in relation to European designated sites, carried out in the course of that application,
- (iii) the nature and scale of the previous s146B alteration permitted for this site under An Bord Pleanála Reference No. ABP-307357-20,
- (iv) the limited nature and scale of the alteration when considered in relation to the overall permitted tip height of height of between 156 - 166 metres,
- (v) the absence of any significant new or additional environmental concerns (including in relation to European designated sites) arising as a result of the proposed alterations,
- (vi) the absence of any requirement for additional conditions as a result of the proposed alteration, and,
- (vii) the report of the Board's inspector, which is adopted,

it is considered that the proposed alterations would not be material. In accordance with section 146B(3)(a) of the Planning & Development Act, 2000 (as amended), the Board hereby makes the said alterations.

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Anthony Kelly

Planning Inspector

8<sup>th</sup> April 2022