An Bord Pleanála

Inspector's Report

ABP-315071-22

Development	A ten year planning permission for a renewable energy development with a 40-year operational life from the date of commissioning consisting of three wind turbine generators. An EIAR and NIS accompany the application.
Location	Townlands of Mass, Loughderryduff, and Lackaghatermon, Ardara, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	22/51393
Applicant	Maas Wind Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal of Permission
Appellant	Maas Wind Ltd.
Observers	1. Joseph Brennan 2. Louis & Joan Hanlon

3. Gweebarra Conservation Group
4. Moira Miller
5. Prof. Alun Evans

Date of Site Inspection	20th April 2023
Inspector	Anthony Kelly

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1.0 Site Location and Description

1.1. The proposed development is located adjacent to the existing nine-turbine, 7.65MW Loughderryduff wind farm, approx. 5km north west of Glenties in west Co. Donegal. There is an associated electrical substation on the existing wind farm site.

1.2. Proposed turbine (T) 1 is located on the same side of the L2563 road (west side) as the existing wind farm. It is approx. 300 metres up an existing stone surfaced access track which continues into a forested area. Lough Namanlagh is to the north of the proposed T1 site, an area of forestry is adjacent to the west, and the smaller Lough Nagurragh is to the south. The closest existing turbine is approx. 250 metres to the south west.

1.3. The proposed T2 and T3 sites are located on the east side of the local road. There is an access track into this area opposite the entrance to the existing wind farm. There are also other tracks in the vicinity. The track is surfaced in stone and the proposed wind farm cable route follows this track. Works have been carried out in the vicinity of the footprints of the two turbines e.g. excavations, exposed peat, and ground level differences. There is water ponding at the proposed turbine locations and there is a significant amount of rock.

1.4. The general area is an open peatland plateau with limited vegetation, although there are small areas of commercial forestry. The proposed turbines are at elevations between approx. 54 and 70 metres above sea level. Much of the site is located within West of Ardara / Maas Road Special Area of Conservation (SAC). There is limited residential development in the vicinity. The environmental impact assessment report (EIAR) states that the closest house is approx. 630 metres north east of proposed T1.

1.5. The site subject of the application has an area of 15.05 hectares.

2.0 Proposed Development

2.1. Permission is sought for a ten-year permission and a 40-year operational life from the date of commissioning for a three-turbine wind farm and all associated works comprising:

- three wind turbine generators and associated hardstand areas with:
    - tip heights in the range 145 metres minimum to 150 metres maximum,
    - hub heights in the range 82 metres minimum to 87 metres maximum,
    - rotor diameters in the range 121 metres minimum to 126 metres maximum,
- upgrading existing access tracks and provide new access track,
- widening three existing site entrances and provide a new site entrance,
- widening four bends and one junction along the L2563 road,
- constructing a control building/substation compound previously permitted under P.A. Reg. Refs. 14/50553 and 19/51227,
- temporary construction site compound, drainage network, internal underground power and communications cabling, and all associated site works.

2.2. In addition to standard planning application plans and particulars the original application to Donegal Co. Co. was accompanied by an Environmental Impact Assessment Report (EIAR) prepared by Jennings O'Donovan & Partners Ltd. (Jennings O'Donovan), dated August 2022. The EIAR comprises a Non-Technical Summary (Volume 1), the EIAR (Volume 2), Appendices (Volume 3), and Landscape & Visual Impact Assessment (LVIA) Photomontages (Volume 4 (also referred to as technical appendix 10.1)). A revised biodiversity chapter was submitted as part of the grounds of appeal. A Natura Impact Statement (NIS) prepared by Doherty Environmental Consultants Ltd. and dated August 2022 was also submitted with the original application. A revised NIS dated November 2022 was submitted as part of the grounds of appeal.

2.3. The proposed development has the potential for an installed capacity of 10.35MW. It would offset 9,393 tonnes of carbon dioxide (CO_2) per year. While the proposed development is expected to be decommissioned, the substation is to be retained as an asset of the national grid under the management of EirGrid.

2.4. The proposed turbines will be a three-bladed typical modern design finished in white, off-white, or grey matt colour. Turbine towers are typically steel or a steel and concrete hybrid, a mainly metal nacelle with a reinforced plastic body, while blades are a matrix

of glass-fibre reinforced polyester or wood-epoxy or similar composite materials. While 'The final turbine will be chosen in a competitive tendering process …' a candidate turbine has been identified for the purpose of EIA. This 'represents the maximum turbine dimension parameters of the shortlisted turbines ...' Turbine blades typically begin to rotate at a wind speed of approx. 2.5 metres per second (m/s). Full power output is typically reached at speeds between approx. 10-12 m/s and the turbines will stop generating at extreme speeds, typically 28-34m/s. Turbines are controlled via a supervisory control and data acquisition (SCADA) system so they are facing into the wind for optimum efficiency and the rotor of each turbine will rotate in the same direction at between five and fifteen revolutions per minute.

2.5. The proposed substation compound is 53 metres x 23.5 metres. A 2.6 metres high palisade fence will contain the proposed 107sqm, 4.7 metres high building and associated equipment. It is located adjacent to the existing substation serving the existing wind farm on the west side of Maas Road.

2.6. There will be an estimated 1,745 metres of cable trenching in approx. 0.6 metre wide by 1 metre deep trenches. Cabling for proposed T2 and T3 will be along the existing site track whereas cabling for proposed T1 does not follow any existing track. It is envisaged that the proposed wind farm will connect to the national grid via the existing substation. The development footprint is approx. 5.45 hectares. Existing roads and access tracks comprise approx. 4.3 hectares, therefore an additional land take of approx. 1.15 hectares is required.

2.7. It is currently proposed that the turbines will be imported via Killybegs Harbour. It is proposed that the L2563 will be upgraded and widened to assist the delivery of the turbine components.

2.8. The construction period will be approx. nine months. There will be approx. thirty construction personnel at peak. The proposed approx. 400m^2 temporary construction compound is to be located adjacent to the existing and permitted/proposed substation on the west side of Maas Road.

3.0 **Planning Authority Decision**

3.1. **Decision**

Donegal Co. Co. refused the planning application for four reasons. The reasons set out below are as per the decision:

1. Pursuant to the decision to adopt the Variation in respect of a Wind Energy Policy Framework to the County Development Plan 2018-2024 (as varied) on 18/07/2022, in accordance with Section 13 (6) (a) of the Planning and Development Act, 2000 (as amended), the Minister for Local Government and Planning issued a ***'Notice of Intention to Issue a Direction'*** to the Council under Section 31 of the Planning and Development Act, 2000 which 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 public consultation in response to the Minister's Notice and in line with statutory requirements, a Chief Executive's report is to be prepared on the public consultation period under section 31(8), in the interim, it has 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 to adequately 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 new Wind Energy Guidelines by the Department of Housing, Planning & Local Government, and the outcome of the Ministerial Direction the Planning Authority considers that it would be premature and contrary to proper planning and sustainable development to permit the current wind farm development proposal.
2. The subject site is located on open and exposed undulating lands which are designated as an Area of High Scenic Amenity in the County Development Plan, 2018-2024 (as varied). Policy NH-P-7 of the County Donegal Development Plan 2018-2024 (as varied) states that *'within areas of High*

Scenic Amenity and Moderate Scenic Amenity, as identified on Map 7.1.1, and subject to the other objectives and policies of this Plan, it is the Policy of the Council to facilitate development of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape'. Furthermore Policy NH-P-13 seeks to preserve views and prospects of special amenity value and interest in particular views between public roads and the sea, lakes and rivers set out on Map 7.1.1 Scenic Amenity of the County Development Plan 2018-2024 (as varied).

Having regard to:

- The height and scale of the proposed wind turbines,
- The highly prominent skyline nature of the wind turbines and
- The high level of visibility of the proposed turbines over an expansive area and the coastal areas in the vicinity,

It is considered that the proposed development sited at this location would constitute a highly obtrusive development that would detract from the existing natural character of the area, would erode the landscape and visual quality of the coastal and designated Wild Atlantic Way scenic route in the vicinity and would adversely impact on the rural character of the area as well as visually impacting adversely on protected views and prospects from the Gweebarra Bridge. The proposed wind turbines would, thereby, be excessively dominant features and a visually obtrusive form of development in this landscape, which would contribute to the erosion of the visual and environmental amenity of the area, and materially conflict with the objectives and policies as set out in the County Donegal Development Plan, and would seriously injure the landscape and visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. A large proportion of the subject site is located within the boundary of the West Of Ardara/Maas Road SAC and within 8km to the following sites, Sheskinmore Lough SPA (Site Code 004090), Inishkeel SPA (004116), Donegal Coast SPA (004150) and Lough Nillan Bog SPA (004110). It is a policy of the Council (Policy NH-P-1 of the County Development 2018-2024 (as varied) refers) **'***to ensure that development proposals do not damage or destroy any sites of*

international or national importance, designated for their wildlife/habitat significance in accordance with European and National legislation including: SACs, Special SPAs, NHAs, Ramsar Sites and Statutory Nature Reserves'.

On the basis of the information submitted in respect of the application with regard to the contents of the Natura Impact Statement and the host of deficiencies as noted by the Department, the Planning Authority considers that insufficient detail has been submitted (i.e. robust scientific data) to support a clear scientific rationale, specifically, risks arising to the relevant SPA Qualifying Interest (QI) species listed for Sheskinmore Lough SPA (site code 004090), Lough Nillan Bog SPA (site code 004110) and Inishkeel SPA (004116). The Planning Authority considers that potential risks to the aforementioned Annex I species have not been adequately addressed in the form of scientific evidence and conclusions. To permit the proposed development would therefore be contrary to Policy NH-P-1 of the aforementioned development Plan and would furthermore be contrary to the proper planning and sustainable development of the area.

4. It is a policy of the Council (Policy E-P-12, County Donegal Development Plan 2018-2024 (as varied)) that appropriate new wind energy developments can be considered "within the areas identified as 'open to consideration' on the Wind Energy Map 8.2.1. Having regard to the fact that a majority of the lands where the proposed development is located is outside of an area 'open to consideration'. It is considered that to permit the proposed development would materially contravene the aforementioned policy provisions of the County Donegal Development Plan 2018-2024 (as varied) and would thereby be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. The planning authority's Planning Report formed the basis of its decision. Section 9 is the assessment of the development. Sub-headings in this section are principle of development (while development of the type proposed is supported in principle it was considered to be premature in the context of the development plan's wind energy policy lacuna), background, siting, design, and visual impact (the site is in a sensitive

location and would have a significant negative landscape impact), residential amenity, access, public health, and development contributions (€236,606).

3.2.2. Appropriate assessment (AA) and Environmental impact assessment (EIA) are also sub-headings. The AA section states that 'Having regard to the number of deficiencies as highlighted by the Department in respect of the NIS a refusal is recommended as there can be no lacunae or unknowns in the environmental assessment therefore it cannot be excluded on the basis of objective scientific information, that the proposed development would not have a significant effect on a European Sites' [sic]. The EIA sub-heading summarises each section of the EIAR. The Planning Report contains limited commentary on any of the EIAR chapters, with the exception of the landscape and visual amenity and traffic and transport chapters. Four reasons for refusal are recommended as per the decision issued. A separate AA report is also provided.

Other Technical Reports

3.2.3. **Building Control –** Conditions recommended.

3.2.4. **Environmental Health Officer –** The report comments on environmental health impacts and the adequacy of the EIAR from the viewpoint of the environmental health service.

3.2.5. In light of peat landslides in counties Leitrim and Donegal in 2020 and underlying shale rock and peat on this site it is recommended that information is provided of detailed measures to prevent this occurrence. The Peat Stability Assessment should be reviewed. Additional necessary measures should be conditioned in any grant.

3.2.6. In addition to air quality mitigation measures in the EIAR, any defects identified in access roads should be repaired within 24 hours.

3.2.7. Any grant should include the mitigation measures outlined throughout the EIAR hydrology and hydrogeology chapter. There should be no direct or indirect emissions of waste water into ground or surface water during construction. All foul waste water should be disposed of off-site at a licenced facility. A ground water monitoring programme, with a specified frequency of monitoring, should be agreed with the planning authority.

3.2.8. The Environmental Health Service (EHS) considers the change in the noise environment to be the most significant likely health impact. The EHS is satisfied with

the noise baseline. All receptors bar two are within noise limits. Both are financially involved, and the three turbines do not increase the noise environment. Cumulative noise levels are considered to be acceptable. No significant construction noise effects have been identified. The EHS recommends construction, operation, and decommissioning of the wind farm be appropriately managed so that effects are not significant.

3.2.9. Cumulative shadow flicker is not considered to be a concern as a blade shadow control system will be installed to ensure the potential for shadow flicker at any nearby receptor will not be increased.

3.2.10. The EHS recommends the operator works in cooperation with any neighbouring operators to minimise occurrence of cumulative impacts which may affect public health.

3.2.11. The EHS is satisfied with the population and human health EIAR chapter.

3.3. Prescribed Bodies

3.3.1. **Department of Housing, Local Government and Heritage –** Two separate reports were received from the Department. The submission dated 21st September 2022 related to nature conservation and the submission dated 22nd September 2022 related to archaeology.

1. Nature Conservation

3.3.2. Heritage/nature-conservation related observations/recommendations were made under four headings.

3.3.3. *Screening for AA* – The Department is concerned that Lough Nillan Bog SPA has been screened out for AA. Therefore, the NIS does not fully consider the potential impacts to mobile species. Specifically special conservation interest (SCI) species of Sheskinmore Lough SPA and Lough Nillan Bog SPA are not adequately identified, detailed, and/or assessed. There are discrepancies in the dates of referenced bird survey data in the NIS. Bird survey data is not in accordance with best practice guidance. Further information is requested with regard to Greenland whited-fronted goose, merlin, golden plover, and dunlin.

3.3.4. *Hydrological links –* The release of suspended solids can be attributed to enhanced nutrient enrichment leading to eutrophication and potentially profound adverse impacts on ecological attributes downstream, particularly to the trophic status of oligotrophic lake habitats.

3.3.5. A hydrological link is identified in the NIS with several lakes within and/or upstream [sic] of West of Ardara/Mass Road SAC. Dilution over distance is not a form of mitigation and the Department is concerned that it is proposed to use intermittent lakes that contain or support QI habitats as settlement basins or hydrological breaks for surface water draining from the site. Pollution and silt management must be contained within the site and waters leaving the site should not be of such quality that could risk impact to downstream QI habitats and species.

3.3.6. Further information is requested clearly demonstrating how the site drainage network will fully mitigate risks arising to hydrologically connected QI habitats and species as well as those occurring within and adjacent to the development i.e. blanket bog and wet heath.

3.3.7. *Managing excavated materials –* The Department is concerned that the materials management plan is insufficiently detailed to allow for AA because it is unclear how temporary earthworks (excavated material) will be managed to ensure run-off/pollution is prevented. There is also concern that that the NIS advocates the use of filter drains alone without complimentary attenuation methods during operation. Additionally, further information is required relating to both borrow pits and the estimated volume of excavated peat soil.

3.3.8. *Habitat loss –* Approximately two-thirds of the windfarm is within West of Ardara / Maas Road SAC. The site and surrounding areas have been identified as wet heath habitat in article 17 reporting, an SAC QI. The Department is concerned that the NIS is unclear and insufficiently detailed to allow an accurate assessment of whether peat based habitats proposed for removal support QI habitats. The NIS states it cannot be ascertained how much additional area is required to upgrade tracks until a post-consent investigation takes place. This results in a lacuna and unknown effect on the site integrity. Such detail should be included to allow for a complete assessment.

3.3.9. Insufficient detail is provided to support a clear scientific rationale for grading the habitats occurring as of low conservation value. ‘(T)he loss of habitat described as

'degraded' is not acceptable in circumstances when such habitat has the potential to be restored to favourable conservation status or has suffered degradation due to associated projects. The Department highlights that any loss of QI habitat is considered an adverse impact and thus a risk to the European sites integrity'.

3.3.10. The NIS has not adequately quantified the loss of wet heath habitat or addressed likely impacts of same. Given the site is surrounded by peat based QI habitat this is fundamental. It is unclear how the proposed development will combine with existing pressures to affect habitats occurring adjacent to the widening of road areas.

3.3.11. Further information is requested regarding whether the blanket bog or wet heath is capable of being restored to favourable conservation condition. Sufficient scientific evidence should be provided to support the conclusion that such habitats are not representative nor can be restored. Further information is also requested to support the conclusion that the proposed development, either alone or in combination with activities such as drainage, overgrazing, turbary, and fire damage, will not further impact the integrity of the site and provide evidence that loss of wet heath or blanket bog will not affect the integrity of the site including the target for the attribute of no loss of area.

2. Archaeology

3.3.12. The Department concurs with the recommendation of the archaeological assessment in the EIAR that archaeological monitoring should be carried out in all areas where there are ground reduction works. A recommended condition is provided in this regard.

3.3.13. **Department of Defence –** An observation relating to lighting of turbines was made.

3.3.14. **Irish Aviation Authority (IAA) –** Two separate IAA submissions were received. One was dated 31st August 2022 and one was dated 1st November 2022. However, both were date stamped by the planning authority as having been received on 8th September 2022.

3.3.15. The submission dated 31st August 2022 states that the Air Navigation Services Division does not get involved in the planning process. Legislative and other requirements are set out e.g. notice of construction of objects, ordnance survey data, and provision of other information such as coordinates, heights, and lighting.

3.3.16. The submission dated 1st November 2022 states that it is the observation of the Safety Regulation Division, Aerodromes that the applicant should be required to engage with Donegal Airport to undertake a preliminary screening assessment to confirm the proposed turbines and cranes would have no impact on instrument flight procedures at the airport. Should permission be granted the applicant and IAA should agree lighting. As-constructed coordinates and heights should be provided, as should notification of crane erections.

3.3.17. **Transport Infrastructure Ireland (TII) –** The proposed development is at variance with official policy in relation to control of development on/affecting national roads as it would, by itself or by the precedent which a grant of permission would set, adversely affect the operation and safety of the national road network for the following reasons:

- Insufficient data has been submitted to demonstrate the proposed development will not have a detrimental impact on the capacity, safety, or efficiency of the national road network in the vicinity.
- Incorrect references between certain relevant sections of the EIAR.
- No detail of relevant proposed temporary works on haul routes are outlined.
- All temporary works to the national road and junctions shall be in accordance with TII publications and a Road Safety Audit shall be undertaken where warranted. In relation to any works to a national road structure, the local authority should consult with TII to ascertain any technical requirements in advance of any permission being granted.
- The EIAR does not outline requirements in relation to abnormal weight loads. A permit may be required from each local authority through which it travels. The developer should check the haul route's capacity to accommodate abnormal loads.
- Any damage caused to the national road pavement as a result of the proposed development shall be rectified.
- The local authority is advised to consult with the local National Roads Office to ascertain any specific requirements in relation to the N56 in the vicinity.

3.4. Third Party Observations

3.4.1. Four submissions were received by the planning authority on foot of the planning application. Three of the observers also submitted observations on the grounds of appeal: Moira Miller, Louise & Joan Hanlon, and Gweebarra Conservation Group. The issues raised in these three submissions are largely covered by the observations received on the grounds of appeal. The fourth submission was made by Narin, Portnoo, Rosbeg Community Co-Op Society Ltd. This submission was in favour of the proposed development because of the community benefit fund and the generation of renewable energy.

4.0 Planning History

4.1. The relevant planning history is as follows:

P.A. Reg. Ref. 03/3043 – Permission was granted in 2004 for nine turbines (49m hub and 52m rotor diameter), 4.5m wide access tracks, substation, 0.1 hectare stone quarry, and associated site development works. It appears that this is the operational wind farm.

P.A. Reg. Ref. 05/30144 – Permission was granted in 2005 for the upgrade of the permitted 20kV substation (03/3043) to a 38kV substation and associated site development works.

P.A. Reg. Ref. 08/31039 – Permission was granted in 2009 for the extension of the existing wind farm comprising 11 turbines (55m hub height and 52m rotor diameter), 4.5m wide access trackways, 0.1 hectare stone quarry, and associated site development works.

P.A. Reg. Ref. 14/50070 – Permission was granted in 2014 for an extension of duration for 08/31039 was permitted until 22nd February 2019. Access tracks were constructed.

P.A. Reg. Ref. 14/50553 – Permission was granted in 2014 for a control building/sub-station with fenced compound and associated site works at existing wind farm.

P.A. Reg. Ref. 16/50564 / ABP Reg. Ref. PL05.246871 – Permission was granted by the Board in 2016, following third party appeals, for 11 no. crane hardstand and

assembly areas, and five turning heads, to serve the wind farm permitted under 08/31039 and 14/50070 and all ancillary site development works.

P.A. Reg. Ref. 19/51227 – Permission was granted in 2019 for an extension of duration for 14/50533 until 13th August 2024.

4.2. The EIA Portal ID is 2022150.

5.0 Policy Context

5.1. Climate Action Plan 2023 – Changing Ireland for the Better

5.1.1. The plan is the second annual update to Ireland's Climate Action Plan 2019. It is the first to be prepared under the Climate Action and Low Carbon Development (Amendment) Act 2021, and following the introduction, in 2022, of economy-wide carbon budgets and sectoral emissions ceilings.

5.1.2. The plan implements the carbon budgets and sectoral emissions ceilings and sets out a roadmap for taking decisive action to halve Ireland's emissions by 2030 and reach net zero no later than 2050, as committed to in the Programme for Government. It sets out how Ireland can accelerate the actions that are required to respond to the climate crisis, putting climate solutions at the centre of Ireland's social and economic development.

5.2. Project Ireland 2040 National Planning Framework (NPF)

5.2.1. The NPF is a high level strategic plan to shape the future growth and development of the country to 2040. It is focused on delivering 10 National Strategic Outcomes (NSOs). NSO 8 is 'Transition to a Low Carbon and Climate Resilient Society' and it is expanded upon on page 147 of the NPF. There is a national objective of achieving transition to a competitive, low carbon, climate-resilient and environmentally sustainable economy by 2050. 'This objective will shape investment choices over the coming decades in line with the National Mitigation Plan and the National Adaptation Framework. New energy systems and transmission grids will be necessary for a more distributed, 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 to the major sources of demand'.

5.2.2. National Policy Objective (NPO) 55 states 'Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050'.

5.3. Wind Energy Development Guidelines for Planning Authorities (2006)

5.3.1. The guidelines provide advice on wind energy development in terms of the development plan and development management processes. Guidance is given on matters such as noise, shadow flicker, natural heritage, archaeology, architectural heritage, ground conditions, aircraft safety, and windtake. Chapter 6 provides guidance on siting and design of wind energy development in the landscape. This includes advice on spatial extent and scale, cumulative effect, layout, and height of turbines.

5.4. Draft Revised Wind Energy Development Guidelines (2019)

5.4.1. These provide for an update and review of the 2006 guidelines.

5.5. Northern & Western Regional Assembly Regional Spatial & Economic Strategy (RSES) 2020-2032

5.5.1. The RSES provides a high-level development framework for the Northern and Western Region that supports the implementation of the NPF and the relevant economic policies and objectives of Government. It provides a 12-year strategy to deliver the transformational change that is necessary to achieve the objectives and vision of the Assembly.

5.5.2. A relevant section of the RSES is 'Renewable Energy and Low Carbon Future' (pages 162-167). This includes policies supportive of renewable energy developments e.g. Regional Policy Objectives (RPO) 4.17 and 4.18.

5.6. County Donegal Development Plan 2018-2024 (as varied)

5.6.1. The status of the wind energy policy provisions of the Plan formed the basis for the first reason for refusal of the planning application, as set out in section 3.1 of this inspector's report. Section 8.1 (Planning Authority Reason for Refusal No. 1 – Wind Energy Policy of the County Donegal Development Plan 2018-2024 (as varied)) of this inspector's report addresses this reason for refusal.

5.6.2. The planning authority's decision to refuse permission was made on 13th October 2022 at a time when the section 31 Ministerial direction process was ongoing. This section of the inspector's report (section 5.6) sets out the wind energy policy of the County Donegal Development Plan 2018-2024 (as varied) as it exists at the date of my recommendation, having particular regard to the document titled 'Variation to the County Donegal Development Plan 2018-2024 (As Varied) in respect of a Wind Energy Policy Framework (Variation No. 2) Incorporating Ministerial Direction Issued Under Section 31 of the Planning and Development Act, 2000 (As Amended)' dated 21st December 2022.

5.6.3. Chapter 8 (Natural Resource Development) includes section 8.2 (Energy). The 'aim' is 'To facilitate the development of a diverse energy portfolio by the sustainable harnessing of the potential of renewable energy including ocean energy, bioenergy, solar, wind and geothermal … It is also an aim to facilitate the appropriate development of associated infrastructure to enable the harnessing of these energy resources and to promote and facilitate the development of Donegal as a Centre of Excellence for Renewable Energy'.

5.6.4. Three policy area designations have been identified for determining the principle of acceptability or otherwise of wind energy development: acceptable in principle, open to consideration, and not normally permissible. These areas are illustrated on map 8.2.1. General energy objectives and policies are set out as well as specific wind energy policies, E-P-10 – E-P-26 (though there does not appear to be a policy E-P-24).

5.6.5. Part B Appendix 3 (Development Guidelines and Technical Standards) of the Plan includes wind energy as section 6.

5.7. Natural Heritage Designations

5.7.1. The subject site (T2 and T3 and their accesses) is partially located within West of Ardara / Maas Road SAC (site code 000197). It is also a proposed Natural Heritage Area (pNHA) (West of Ardara / Mass Road pNHA – site code 000197).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal are submitted by Jennings O'Donovan on behalf of the applicant, Mass Wind Ltd. The grounds of appeal include the reasons for refusal, a development and site description, a planning history, and an outline of the legislative and policy context. The main points made that are specifically relevant to the decision and reasons for refusal can be summarised as follows:

First Reason for Refusal

- Notwithstanding the issues cited in the reason for refusal there are a range of wind energy policies, guidelines, and objectives at all levels which provide a strong basis for assessing wind energy developments. There is a pressing need to deliver renewable energy projects.
- Four Board decisions in Co. Donegal are cited as precedents where the issue of a lacuna in county planning policy was not considered a barrier to making a decision:
    - ABP-308806-20 for 12 no. turbines was granted on 30th August 2022 (a strategic infrastructure development),
    - ABP-311327-21, a one turbine extension to an existing three turbine wind farm, was granted on 26th January 2022,
    - ABP-306303-20 for 13 no. turbines was granted on 27th January 2021 (a strategic infrastructure development), and,
    - ABP-308419-20 for three turbines was granted on 27th May 2021.

- The principle for wind energy on this site has already been established by the planning history.

Second Reason for Refusal

- A Landscape and Visual Statement prepared by Macroworks has been submitted with the grounds of appeal. It is not considered that the proposed turbines would be excessively dominant features and a visually obtrusive form of development which contributes to the erosion of the visual and environmental amenity of the area. The development represents a modest intensification of an established land use and is appropriately sited.
- The planning report stating the proposed turbines are in a relatively untouched landscape is not accurate. There are anthropogenic features such as the existing wind farm, roads, overhead lines, and commercial forestry.
- The site is in a 'High Scenic Amenity' landscape classification area, the median classification identified in the County Donegal Development Plan. No protected views are directly oriented in the direction of the proposed development.
- The scale of the turbines is not excessive in the context of wind energy developments in Ireland. The turbines would be viewed in the context of large-scale landscape features and broad underlying land forms.
- A previous extension of the wind farm was approved in 2008.
- Views of the proposed turbines will rise just above the ridgeline to the south west of Gweebarra Bridge designated scenic view i.e. away from the specified orientation of the scenic view. The existing turbines are already visible.

Third Reason for Refusal

- The NIS and EIAR biodiversity chapter have been updated in the grounds of appeal. There has been further consideration of the primary bird survey data in light of established best practice guidelines, and it is considered to be adequate. Additional habitat and vegetation surveys were also completed to inform the NIS.

- Further consideration is also given to the SPAs and the relevant qualifying features listed in the reason for refusal. Potential risks to the relevant annex I species are thoroughly examined and supported by primary scientific data collected in the field as well as published evidence and guidelines.
- A portion of the site lies within West of Ardara / Maas Road SAC. Some features have already been constructed under previous permissions. The area within the SAC has been heavily impacted by human activity over many years.

Fourth Reason for Refusal

- Permission was granted by the local authority in 2008 for 11 turbines. The current variation of the County Donegal Development Plan classifies T2 and T3 in an area not normally permissible for wind energy development, while T1 is in an area open to consideration. The ambiguous nature of wind energy policy in the county is shown by the previous 'acceptable for augmentation of / improvements to existing wind farms' designation in the previously adopted but removed mapping from the 2018-2024 Plan. 'The reason for refusal is flawed as at the time of making the appeal there is still a policy vacuum with respect to the wind energy maps'.
- The local authority granted permission under 16/50564 when the zoning of the site was the same i.e. a not favoured area for wind energy under the 2012-2018 County Development Plan.

6.2. **Planning Authority Response**

6.2.1. The main points made can be summarised as follows:

- In terms of the principle of development there is no current valid permission pertaining to the subject site. Notwithstanding that partial infrastructure is in place, the proposal was considered as a new application.
- In relation to the response to the first reason for refusal the planning authority considers the reason remains a material consideration in the assessment of the application and the proposal is premature pending the outcome of the final direction.

- In relation to the response to the second reason for refusal the planning authority does not agree that the proposal represents the modest intensification of a well-established land use. The submitted LVIA clearly indicates that the proposed development would be highly prominent from multiple viewpoints as well as adversely impacting on protected views from Gweebarra Bridge. Though the planning authority acknowledges that wind turbines will never be inconspicuous on the landscape the proposed development will be offensive in this sensitive and locally elevated area, both surrounding the area and at a distance. The proposed development cannot be accommodated without significant negative detriment to visual amenity.
- The draft Ministerial direction removed the moderately high landslide susceptibility and moderately low landslide susceptibility sub-elements from map 8.2.1. The map, assessed at this time, is formed of SAC designations only i.e. one of a number of the evidence layers. It would still, in effect, locate the site in an area 'not normally permissible'.
- The refusal reasons remain a material consideration in the assessment. The proposed development is not appropriate nor a sustainable form of development having regard to the significant negative visual impact and the potential negative ecological impacts. Further matters are addressed in the planning report. A colour copy of same is attached.

6.3. Observations

6.3.1. Observations were received on the grounds of appeal from the following:

1. Joseph Brennan, Shallogans, Fintown, Co. Donegal
2. Louis & Joan Hanlon, Glenview, Tullyard, Glenties, Co. Donegal F94 T2Y1
3. Gweebarra Conservation Group c/o Patricia Sharkey, Cloghercor, Doochary, Co. Donegal
4. Moira Miller, Derryloughan, Doochary, Co. Donegal
5. Prof. Alun Evans, Centre for Public Health, Queen's University, Belfast

The main issues raised in each observation can be summarised as follows:

6.3.2. Joseph Brennan

- It is disingenuous to refer to PL05.246871 without saying the permission was subject of a judicial review (2017 163/JR) and unauthorised development action in 2019. The observer was the applicant in those judicial review proceedings. The case was eventually abandoned. The observer sets out a background to this. Works commenced on site after the expiration of the permission. This was upheld by the planning authority. As per condition 2 of the permission the site should be restored.
- The observer notes and welcomes the very clear and robust comments and position of the Department of Housing, Local Government and Heritage.
- The only projects that are ever considered in SACs are ones of imperative reasons of overriding public interest and wind farms never attain that bar.
- The observer notes the position of the Department in relation to bird data.
- It is the current legislative environment that is relevant, not the future legislative environment.
- Biodiversity and habitat loss is the key factor obligating the Board to refuse the appeal.

6.3.3. Louis & Joan Hanlon

- The site location address (Massloughderryduff) as per Board detail is misleading. Mass and Loughderryduff are two separate townlands.
- Turbine sizes are not specific.
- Carbon dioxide release from peat during construction.
- Studies suggest turbines need to be at least 2km apart to be efficient.
- Excessive number of wind farms in the area and county.
- Cumulative health impacts from noise from proposed and existing turbines.
- Impact on European sites.
- Concern about falling blades, fire, a previous turbine collapse at Loughderryduff, and road safety during transportation.

- Concern about visual impact.
- Concern about health impacts to farm animals in the vicinity of wind turbines, including the observers' own.

6.3.4. Gweebarra Conservation Group

- Scant attention has been paid by the applicant to the Wildlife Act and Birds and Habitats Directives.
- The observation notes the Department of Housing, Local Government and Heritage comments in relation to bird surveys.
- The presence of the existing wind farm is not a justifiable reason to erect more turbines.
- The EIAR and NIS are inadequate and fail to acknowledge the importance of peatlands to countering climate change. Reports prepared by wind developers are frequently erroneous.
- The application must be refused by the Board having regard to the wind energy variation which excluded certain areas from turbines.
- Inadequate public consultation.
- No reference to a sewage system for the proposed substation nor reference to runoff from roads.
- The ill health effects of turbines on people, animals, and wildlife are ignored in the appeal.
- The 2006 Wind Energy Guidelines are out of date.
- Concern about depreciation of property and land values.

6.3.5. Moira Miller

- Concern about the incremental increase in the number and heights of turbines following from the initial application.
- Refusal of the application is required in the interest of residents and the environment.

- The application is objected to because of the negative impact on landscape, health, scenery, tourism, land value, property value, wildlife, culture, lifestyle, natural environment, the right to live in peace, noise pollution, and light pollution.

6.3.6. Prof. Alun Evans

- Both the Department of Housing, Local Government and Heritage report and the planning authority report were scathing.
- The preservation and restoration of peatlands is fundamental to any approach intended to reduce carbon emissions.
- The observer states that local wildlife and the health of the area's human population will suffer. Reference is provided to reviews and papers written/reviewed by the observer for various journals about the impact of wind farms on human health.
- The observer outlines problems associated with infrasound and low frequency noise (ILFN). The bigger the turbines the more ILFN is emitted. Evidence suggests ILFN effects are felt up to 15km away.
- Influential papers confirm that an adequate night's sleep is important to health. Wind farms in rural areas are guaranteed to disrupt sleep.
- There is harm being inflicted on rural community relations by the Ireland's wind energy policy.
- Reference is made to an Australian authority's declaration that wind turbine noise annoyance and infrasound is a plausible pathway to disease. It also held that the dB(A) weighting system is not appropriate for measuring wind turbine noise.
- The observation refers to research on the brain and heart muscle in terms of noise and infrasound.
- The observation also refers to reports of local pollution from the rare earth metals and plastics used in the turbines.

- Constructing wind farms on blanket bog is highly questionable because more carbon dioxide would be released than is saved. Previous bog slides elsewhere are referenced.
- Autistic children and those with photosensitive epilepsy are affected by turbines.
- A recent paper shows that wind turbines exert a climate-warming effect.
- The decision taken by Donegal Co. Co. to limit further wind farm development should be defended as vehemently as possible.

6.4. Further Responses

6.4.1. None.

7.0 Assessment

7.1. The assessment has three elements: a planning assessment, an environmental impact assessment (EIA), and an appropriate assessment (AA). In each assessment, where necessary, I refer to issues raised by the different parties in the various submissions to the Board. There is an inevitable overlap between some assessments, for example some matters raised relate to both EIA and AA.

8.0 Planning Assessment

Having examined the application details and all other documentation on file, including the observations received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal, other than those set out in detail within the EIA and AA, are as follows:

- Planning Authority Reason for Refusal No. 1 – Wind Energy Policy of the County Donegal Development Plan 2018-2024 (as varied)

- Planning Authority Reason for Refusal No. 2 – Visual Impact
- Planning Authority Reason for Refusal No. 3 – Appropriate Assessment (AA)
- Planning Authority Reason for Refusal No. 4 – Site Location in the Context of the Areas Identified as 'Open for Consideration'
- Turbine Type
- Substation and Grid Connection

8.1. Planning Authority Reason for Refusal No. 1 – Wind Energy Policy of the County Donegal Development Plan 2018-2024 (as varied)

8.1.1. The County Donegal Development Plan 2018-2024 came into effect on 5th June 2018. Variation No. 1, which related to the TEN-T Priority Route Improvement Project, was adopted on 31st May 2021. Variation No. 2 related to the wind energy policy framework and was adopted by the Council on 18th July 2022. A section 31 draft direction issued from the Minister to the Council on 29th August 2022 in relation to the variation, specifically to the omission of two policies and amendment of one map. The policies related to, inter alia, a setback distance from a house curtilage/centre of human habitation of ten times the tip height of a turbine, including for repowering projects. The decision on the planning application was made on 13th October 2022. The planning authority's first reason for refusal cited the fact that, at the time the decision was made, there were deficiencies within the wind energy policy framework in the plan and the planning authority was not in a position to adequately assess wind energy proposals. On 20th December 2022 the Minister directed the omission of Policy E-P-23 (2) and (3) and associated endnote, and Policy E-P-24, as well as the amendment of map 8.2.1.

8.1.2. Variation No. 2 of the Plan is not the only time that there has been an issue with the planning authority's wind energy development framework. On foot of judicial review 2018/533JR (order date 5th November 2018), certain provisions of the 2018-2024 Plan were ordered to be deleted and/or removed which were similar to those contained in the proposed variation. They related to (i) areas identified as locations where wind farm development would not be acceptable as identified on map 8.2.1 and, (ii) a requirement for a setback distance of ten times the tip height of proposed turbines

from residential properties and other centres of human habitation. As set out in the grounds of appeal, a number of wind energy development applications received in Co. Donegal were considered by the Board in the context of this vacuum. Notwithstanding, it was considered by the relevant inspectors, and the Board at decision stage, that there was adequate regional and national policy guidance in place to appropriately assess the applications, as well as other sections of the Plan which expressed broad support for wind energy development in principle.

8.1.3. I note the response of the planning authority to the grounds of appeal which states, inter alia, that the first reason for refusal remains a material consideration 'pending the outcome of the Final Direction after the period of consultation …' As the direction has been issued by the Minister, and the variation revised by the council, I am satisfied that the lacuna in wind energy policy no longer exists in so far as it applies to this planning application. Therefore, the primary rationale for the first reason for refusal is addressed because the Ministerial direction process cited has concluded.

8.1.4. The reason for refusal also states that there is a dearth of national guidelines and references 'the impending publication of new Wind Energy Guidelines' by the Department. While the draft revised guidelines were published in 2019 the Wind Energy Development Guidelines (2006) remain in force. The Board has recently made decisions on a number of wind energy development applications under the 2006 guidelines e.g. ABP-312748-22 (Co. Roscommon) and ABP-311043-21 (Co. Offaly). I do not consider the delay in publishing updated wind energy guidelines is an appropriate reason for refusal of the planning application.

8.1.5. Having regard to the foregoing I consider that the planning authority's first reason for refusal of the planning application has been addressed by the completion of the Ministerial direction process.

8.2. Planning Authority Reason for Refusal No. 2 – Visual Impact

8.2.1. The planning authority's second reason for refusal is based on the visual impact of the proposed development. Chapter 10 (Landscape and Visual Amenity) of the EIAR is relevant to this chapter. The EIAR chapter is summarised in paragraphs 9.98 – 9.114 of this inspector's report and this section addressing this reason for refusal should be read in conjunction with the EIA assessment and conclusion of that chapter.

8.2.2. General concern about the impact of the proposed development on the landscape and visual amenity of the area was a major issue cited in the third party observations, as is normal in applications for wind energy development. This is a very important consideration given that visual impact is the most obvious physical result of wind turbines. However, visual impact is inevitable and unavoidable. As acknowledged by the applicant, 'there is very little that can be done to mitigate the operational stage view of commercial scale wind turbines using on-site screening measures typically employed for other forms of development' (page 375 of the EIAR).

8.2.3. The planning authority's planning report addresses landscape and visual amenity under the heading of 'Siting, Design and Visual Impact'. It states that there are no landforms or structures that would integrate the 150 metres high turbines and they have the potential to have a dominant visual presence. Though noting the existing wind farm, the proposed turbines 'would be obtrusive, overly dominant and a haphazard form of development' (page 34). The report makes particular reference to viewpoints 5, 7, 9, 17, 18, and 19 in the photomontages document. Views along the Wild Atlantic Way are referenced. The planning authority considers that the visibility of the proposed development would extend over a wide area and, as it does not fall neatly within the Ardara Bays, Coast and Gaeltacht Landscape Character Area (LCA) 30 of the Landscape Character Assessment, it cannot be assessed in isolation. The planning officer was of the opinion that the proposed development could not be construed as being positive in the context of the relevant LCA, would reduce the quality of the landscape character types over which it would have influence, and would have a significant negative landscape impact. Refusal of permission was recommended on the basis that the proposed development would be contrary to policies NH-P-7 and TOU-P-5 of the County Donegal Development Plan 2018-2024 (as varied). Given this, it is unclear why policy TOU-P-5 was not cited in the reason for refusal.

8.2.4. The applicant's rebuttal of this reason for refusal is summarised in section 6.1 of this inspector's report. In this regard I note that the grounds of appeal are accompanied by a 'Landscape and Visual Statement' prepared by Macroworks and dated October 2022, attached as appendix D to the grounds of appeal. I have taken the content of this document into consideration in my assessment.

8.2.5. The first sentence of the reason for refusal notes the designation of the site as being within an Area of High Scenic Amenity. These areas are defined on page 133 of the

County Donegal Development Plan 2018-2024 (as varied) as ‘landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan’. Map 7.1.1 identifies the site and the general wider vicinity as being within this designation. Two policies within the County Donegal Development Plan 2018-2024 (as varied) are then cited:

- Policy NH-P-7 – Within areas of 'High Scenic Amenity' (HSC) and 'Moderate Scenic Amenity' (MSC) as identified on Map 7.1.1: 'Scenic Amenity', and subject to the other objectives and policies of this Plan, it is the policy of the Council to facilitate development of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.
- Policy NH-P-13 – It is a policy of the Council to protect, conserve and manage landscapes having regard to the nature of the proposed development and the degree to which it can be accommodated into the receiving landscape. In this regard the proposal must be considered in the context of the landscape classifications, and views and prospects contained within this Plan and as illustrated on Map 7.1.1: ‘Scenic Amenity’.

8.2.6. It is stated in the last sentence of the first paragraph of the refusal reason that policy NH-P-13 ‘seeks to preserve views and prospects of special amenity value and interest in particular views between public roads and the sea, lakes and rivers set out on Map 7.1.1 …’ Policy NH-P-13 is set out in the previous paragraph, above. In my opinion, to suggest that this is what the policy does is a leap of interpretation that is not supported by the specific wording of the policy. This specific phraseology is instead contained within policy NH-P-17. I do not consider that the subject development can be reasonably considered to be located so as to be between the road and the sea, lakes, or rivers in the manner intended by the members of the planning authority when adopting this policy.

8.2.7. The reason then cites the specific concerns the planning authority has with the proposed development i.e. the height and scale of the proposed turbines, the 'highly prominent skyline nature' of the proposed turbines, and their high level of visibility. The third paragraph states that the proposed turbines would be highly obtrusive and would detract from the natural character of the area, would erode the landscape and visual quality of the Wild Atlantic Way in the vicinity, would visually impact adversely on protected views and prospects from Gweebarra Bridge, would be excessively dominant features, would contribute to the erosion of the visual and environmental amenity of the area, and would materially conflict with the objectives and policies set out in the Plan.

8.2.8. While I accept that there is no doubt that the proposed development would have a visual impact on the area, there is a very strong policy framework in place, at all levels, that supports wind energy development. For example, one of the 'aims' of the planning authority as expressed in section 8.2 of the Plan, is 'To facilitate the development of a diverse energy portfolio by the sustainable harnessing of the potential of renewable energy including ocean energy, bioenergy, solar, wind and geothermal, along with the sustainable use of oil and gas, and other emerging energy sources in accordance with National Energy policy and guidance. It is also an aim to facilitate the appropriate development of associated infrastructure to enable the harnessing of these energy resources and to promote and facilitate the development of Donegal as a Centre of Excellence for Renewable Energy'. Objective E-O-7 of the Plan, as inserted following the Ministerial direction, states that it is an objective 'To secure the maximum potential from the wind energy resources of the planning authority's area commensurate with supporting development that is consistent with proper planning and sustainable development'. A balance has to be struck between visual impact and the development of wind energy. I do not consider that visual impact alone can be the sole criterion on which to judge wind energy development as there will always be a visual impact and therefore a conflict.

8.2.9. The site is in an Area of High Scenic Amenity, which is the median scenic amenity designation in the Plan. These areas 'have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape …' In this regard the fact that there is an existing nine-turbine wind farm immediately adjacent to

the proposed site cannot be ignored. 'Assimilation' is a key word used in the definition. The presence of the existing turbines has established this area as one where wind turbines are located and can be absorbed. Notwithstanding the larger scale of the proposed turbines, the proposed development would also be consistent with policy NH-P-7 as the existing turbines have set a precedent whereby the proposed turbines would integrate with and reflect the character of the area. As outlined elsewhere, the proposed turbines are of a scale that reflects contemporary turbine size. Therefore, I consider the proposed development would be acceptable in terms of visual amenity at the local level.

8.2.10. Two issues are the location of the proposed development and the imbalance in heights between the existing and proposed turbines. The proposed turbines are located on a relatively substantial localised plateau. Though it could not be described as an upland area it is consistent with some characteristics of mountain moorland, flat peatland, and transitional marginal landscapes as referenced in the Wind Energy Development Guidelines (2006). These landscape character types are included in the guidelines to practically illustrate siting and design guidelines for wind energy. Therefore the subject landscape character type is generally suitable for wind energy. The guidelines also refer to differing turbines heights. Page 45 states 'A wind energy development comprising two distinct turbine heights may be acceptable provided the resulting composition is carefully considered, so as to achieve an aesthetic effect. This situation may result from the combination of an old and a new wind energy development or where certain turbines would be critically visible from a sensitive viewpoint. Other than the height difference, the wind energy developments in the same viewshed should relate with regard to their main design features and colour'. Therefore, there is no presumption against turbines of differing heights in the guidelines. The proposed turbines reflect the scale of turbines that are currently being applied for throughout the country and are not, in themselves, particularly remarkable.

8.2.11. The existing nine-turbine wind farm, notwithstanding the smaller heights of the turbines, already comprises a significant anthropological intervention into the landscape at this location. While the proposed turbines are significantly larger than the existing turbines, as can be clearly seen in the photomontage booklet, the fact is that this is not a 'pristine' rural environment and the proposed turbines would be read as an extension to the existing wind farm from many vantage points (VPs). I agree with

the applicant's point, as made on page 371 of the EIAR that 'Whilst the proposed turbines are notably larger than the existing 9 turbines, the scale increase is well assimilated with the underlying terrain that comprises of a broad low rolling plateaux of hills and lakes and extensive areas of moorland and conifer forestry … These attributes prevent the height of the development turbines causing the type of scale conflict that can occur in more intricate landscapes'. The broad sweeping panoramic views would tend to diminish the visual presence, as per page 372.

8.2.12. There is an obvious conflict between visual impact and the wind energy policy framework, particularly in more scenic areas. I consider that the footprints of the proposed turbines are close enough to the existing turbines that they can reasonably be considered to be a visual extension of the existing wind farm and an intensification of an existing land use rather than a new intervention in the landscape, though from some viewpoints, for example VRP 18, this may not be the case.

8.2.13. In terms of the range of heights proposed within the application, the range cited is limited and whichever height is selected within that range would have a negligible effect on the visual impact from that presented in the photomontages (which are based on 150 metres turbine tip heights, 87 metres high hub heights, and 126 metres rotor diameter).

8.2.14. It is also worth noting, as pointed out by the applicant, that the views set out in map 7.1.1 (Scenic Amenity) of the Plan, of which there are a number in the wider vicinity, are all directed away from the proposed wind farm location. In addition, the impact of the turbines would be removed in the event of decommissioning of the development. Therefore, although they are infrastructure that would be in place long-term, they would not necessarily remain in perpetuity. The supporting infrastructure, only visible when in proximity to the site, does not have the same visual impact.

8.2.15. Having regard to the foregoing, and while I fully accept and understand the legitimate concerns of both the planning authority and third parties in relation to visual impact, in my view the combination of the policy framework which strongly supports the development of renewable energy and the presence of the existing nine-turbine wind farm, in addition to the other issues outlined in this section, is sufficient for me to recommend to the Board that permission is not refused on the basis of visual impact.

I do not consider that the visual impact that would result is sufficiently adverse to warrant a refusal of permission.

8.3. Planning Authority Reason for Refusal No. 3 – Appropriate Assessment (AA)

8.3.1. I have addressed the issue of AA in detail in section 10 of this inspector's report. I conclude that the proposed development would affect the site integrity of West of Ardara / Maas Road SAC and permission should be refused on this basis.

8.4. Planning Authority Reason for Refusal No. 4 – Site Location in the Context of the Areas Identified as 'Open for Consideration'

8.4.1. The planning authority's fourth reason for refusal is because, as the majority of the turbines are proposed on land outside an area open for consideration for such development, it would be contrary to policy E-P-12 of the County Donegal Development Plan 2018-2024 (as varied).

8.4.2. The planning authority's Planning Report noted the positions of the relevant turbines in both an 'open for consideration' area for T1 and in a 'not normally permissible' area for T2 and T3 prior to the Ministerial direction which amended map 8.2.1. Though the direction removed landslide susceptibility as a 'layer' in the map ('moderately low' and moderately high' landslide areas were to be changed to 'open for consideration') the SAC designation 'layer' was still applicable and T2 and T3 therefore remained in a not normally permissible area.

8.4.3. As outlined in section 8.1 of this inspector's report any policy vacuum that may have existed, at the time the planning authority's decision was made and the appeal was made by the applicant, no longer exists. I consider that a robust assessment of this reason for refusal can be carried out in a complete policy environment.

8.4.4. Policy E-P-12 of the County Donegal Development Plan 2018-2024 (as varied) is as follows:

> 'It is a policy of the Council that the principle of the acceptability or otherwise of proposed wind farm developments shall be generally determined in accordance with the three areas identified in Map 8.2.1 'Wind Energy' and the specific biodiversity related requirements detailed below:

1. Areas in Map 8.2.1 Wind Energy:

(a) Acceptable In Principle

Wind energy development shall be generally acceptable in these areas.

(b) Open to Consideration

Wind energy development shall be generally open to consideration in these areas.

(c) Not Normally Permissible

(i) Windfarm development proposals on previously undeveloped sites, inclusive of sites with a lapsed un-implemented permission (and where substantive works have not been undertaken) will not normally be permissible.

(ii) The augmentation, upgrade and improvements of: existing windfarms; windfarm developments under construction; developments where permission has lapsed but substantial works have been completed, or on sites with an extant planning permission will be open to consideration where such proposals shall be generally confined to the planning unit of the existing development.

2. Specific Biodiversity Related Requirements:

a) Loss of functionally linked habitat

Developers of wind energy proposals on greenfield sites shall undertake a pre-construction appraisal of habitats. Should habitats suitable for supporting Special Conservation Interest bird species be present, developers will be required to undertake pre-construction bird surveys to confirm whether the site supports a significant proportion of bird populations (typically taken to be 1% of the population of a SPA, at time of designation). Depending on whether qualifying birds represent breeding or overwintering species, surveys will need to be undertaken in the breeding season or overwintering period (October to March). If a site represents functionally linked habitat, avoidance / mitigation measures will be required and the proposal will need to be supported by a bespoke Appropriate Assessment.

b) Mortality due to collision with operational wind turbines

Wind energy development proposals shall demonstrate that they can be delivered without resulting in adverse effects on the integrity of European sites. Vantage point surveys will be required to establish a) the overall use of the development site by Special Conservation Interest birds and b) more detailed usage by Special Conservation Interest birds of the turbine swept area taking account of specifications such as turbine height, blade length, nacelle (blade hub) rotation speed and the number of turbines. Mitigation measures may need to be delivered to ensure that any residual risks are appropriately avoided or reduced.

c) Disturbance displacement

To avoid potential permanent disturbance displacement impacts on Special Conservation Interest bird species, Donegal County Council will generally not support wind energy proposals within 1km of Special Protection Areas unless clear evidence from the applicant or scheme promoter can demonstrate no adverse effect on site integrity will arise.

d) Water quality

Any wind energy developments within 1 km of sensitive SPAs / SACs shall ensure that potential adverse impacts on the European sites due to water quality impacts are assessed and, where required, mitigated. Possible assessments and mitigation measures include, but are not limited to, water quality and ecological baseline studies, run-off / leachate modelling, delivery of Construction Environmental Management Plans (CEMPs) and Water Management Plans (WMPs) and compliance with industry good practice'.

8.4.5. There are three different areas outlined on map 8.2.1 i.e. areas where wind farm development is acceptable in principle, open to consideration, or not normally permissible. Map 8.2.1 was accessed online on 6th July 2023 (https://donegal.maps.arcgis.com/apps/webappviewer/index.html?id=329089f4afdb497ab97f2e16535e09ef). Only a very limited area in the extreme south east of the county is designated as an area acceptable in principle. The overwhelming majority of land area is designated ether open to consideration or not normally permissible. Unlike some planning authorities such as Offaly which has a broad, high-level map indicating

whether or not an area is generally deemed suitable for wind energy development, map 8.2.1 goes to granular level detail. It is clear that T1, its access track, hardstanding, cable route to the proposed substation, and the substation itself are in an area designed as open to consideration.

8.4.6. T2, T3, their hardstandings, existing and proposed access points and tracks and underground cable are in an area designated as not normally permissible. There are two subsections to policy E-P-12 (1) (c). I do not consider that the proposed development would fit neatly into either subsection. Subsection (i) states that on sites with a lapsed unimplemented permission and where substantive works have not been undertaken, development will not normally be permissible. I consider the application is slightly more relevant to this subsection though, as the existing track and hardstandings only play a limited role in the specific footprint of the proposed development, as expanded upon in paragraphs 8.4.8 – 8.4.12, these are only of limited value to the development of the proposed turbines 2 and 3 and I do not consider them to be 'substantive works' in the manner intended. Subsection (ii) states that the augmentation, upgrade, and improvement of a development where permission has lapsed but substantial works have been completed will be open to consideration where the proposal is 'generally confined to the planning unit of the existing development'. As regards the final point I am satisfied, having regard to the footprint of the eleven turbines permitted under 08/31039 and subsequently extended, that the three proposed turbine are within the same 'planning unit' as the expired permission.

8.4.7. Part 2 of policy E-P-12 relates to biodiversity. Subsection (a) (loss of functionally linked habitat) specifically refers to wind energy proposals on greenfield sites. This is not a greenfield site as it has previously been subject of development. Notwithstanding, bird surveys have taken place, and are addressed in detail in this inspector's report in the assessment and conclusion of chapter 6 (Biodiversity) of the EIAR and section 10 (AA). Subsections (b) (mortality due to collisions with operational wind turbines) and (c) (disturbance displacement) are similarly addressed in these two sections, and subsection (d) (water quality) has also been considered in the assessment and conclusions of the relevant EIAR chapters and the AA.

8.4.8. T2 and T3 are within West of Ardara / Maas Road SAC. Permission was granted for eleven turbines in 2009. Six turbines were permitted on the east side of L2563 and five on the west side. In 2014 the permission was extended until 2019. Therefore the

permission has expired. The applicant states that 'The entrance and majority of access tracks and hardstands required within the SAC have already been constructed under previous permissions, but they will need widening and strengthening' (page 5 of the EIAR). The access track and hardstanding areas that are in place are those that loosely serve T2 and T3. They are not constructed to a suitable construction/operation standard, in particular the hardstanding areas. The hardstanding areas are located on relatively similar footprints to permitted/expired T14 and T16. No other permitted access track appears to have been constructed. One of the observations on the grounds of appeal states that this track was constructed after the expiration of the permission, however the planning authority has not referred to any unauthorised development activity.

8.4.9. Although policy E-P-12 refers to works having been carried out under a lapsed permission, the application subject of the appeal will be assessed on its own merits, while being cognisant of the planning history. The current application is very different to the expired application. There are three turbines rather than eleven. They are significantly larger in size than those permitted/expired (81 metres in height later reduced to 79.6 metres in height), and the site footprint is significantly reduced.

8.4.10. While an existing track is in place the site layout plan shows that this would only play a limited role in the proposed development. (In the following paragraphs I refer to the 'Overall Site Layout Plan' 1:2500 scale, Drg. no. 6090-JOD-WF-01-DR-C-0100-2). The entrance to T2 has to be substantially widened and splayed to accommodate delivery vehicles. Approx. 150 metres of the existing track will be utilised plus, it appears, a turning area. However an entirely new track is to be constructed, approx. 270 metres in length, along with new crane pads, assembly area, turning point etc. approx. 30 metres east of the existing turning area. The hardstanding area is only partially located on the footprint of the permitted hardstand area.

8.4.11. The existing track between T2 and T3 is to be only utilised for the cable route. T3 is to have a new approx. 300 metres long access road onto the L2563 which would only utilise an existing approx. 30 metres length of existing track. The proposed hardstand, turning area, crane pads, and assembly area would almost entirely be constructed outside the existing track/hardstand area.

8.4.12. Therefore, while an existing track and hardstand areas are located within the site the proposed development would only use a limited amount of this as illustrated on the site layout plan. While works may have been carried out on site under a previous permission I am of the view that they are relatively limited in the context of their use for the proposed development. I consider that the proposed development is a new, separate development to that permitted/expired, notwithstanding they are both wind energy developments, and I do not consider that these works can reasonably be used as a 'piggy back' for the proposed development in so far as policy E-P-12 relates.

8.4.13. I note the terminology used in policy E-P-12 (1) (c) in that wind farm proposals in a not normally permissible area 'will not normally be permissible'. This implies a degree of latitude should extenuating circumstances exist, as opposed to a complete bar on development. However, while I note the planning history on site, in my view the status of T2, T3, and associated infrastructure in the West of Ardara / Maas Road SAC overrides any flexibility that the policy may contain.

8.4.14. It is T2, T3, and associated infrastructure that is affected by the not normally permissible designation and not T1, the proposed substation, and their associated infrastructure. However, given that two thirds of the number of turbines are considered to be not acceptable I consider that it would not be appropriate for the Board to consider a split-decision in this regard.

8.4.15. Therefore, having regard to the foregoing, I consider that the proposed development would not be consistent with the provisions of policy E-P-12 (1) of the County Donegal Development Plan 2018-2024 (as varied) and I consider that the planning authority's fourth reason for refusal was reasonable. I consider permission should be refused on this basis.

8.5. **Turbine Type**

8.5.1. On foot of Sweetman v An Bord Pleanála ([2021] IEHC 390) (the Derryadd decision) it was ruled that the design envelope approach was contrary to the requirement under the Planning & Development Regulations, 2001 (as amended), to provide 'plans and particulars' in relation to the relevant application i.e. 'up to' dimensions were not adequate. In this application a limited and narrow range of dimensions is proposed. The total tip height would be between 145 metres and 150 metres, the hub height

would be between 82 metres and 87 metres, and the rotor diameter would be between 121 metres and 126 metres. The 'Candidate Turbine Dimensional Considerations Elevations' (Drg. no. 6090-JOD-WF-01-DR-C-0400-2) illustrates the three options sought.

8.5.2. Pages 19-20 of the EIAR addresses the issue of turbine parameters. It states that 'The potential impacts arising from the range of turbine parameters is considered throughout the various assessments in this EIAR. Within each competency the larger impacts arising from the proposed development are identified and assessed, by the relevant, competent experts and any applied mitigation measures to these worst-case scenario impacts will also ensure that any lesser impacts arising from within the range are also mitigated. These are summarised in Table 1.6. Within each competency, the range of the turbine dimensions has been assessed and if required, additional assessments are provided'.

8.5.3. Table 1.6 discusses the parameters in the context of each of the environmental factors/EIAR chapters. For some factors such as soils and geology or hydrology and hydrogeology the parameter envelope would have no effect on that environmental factor. For some environmental factors, such as noise or shadow flicker, the parameters would have an effect. Therefore the turbine selected for the noise assessment 'reflects a worst-case scenario … as it generates the highest sound power levels of all turbines within the proposed range'. For shadow flicker a combination of the largest rotor diameter and highest hub height were selected as this configuration would generate most shadow flicker. For the swept path analysis along the turbine delivery route the longest blade length has been considered which would also capture any issues presented by shorter blade lengths.

8.5.4. I consider that the ranges proposed for the tip height, hub height, and rotor diameter are relatively limited in the context of the scale of the overall turbine and there would be negligible visual impact as a result of choosing one turbine option over another.

8.5.5. I consider that the application adequately addresses the issues that came out of the Derryadd decision. Should permission be granted for this application there would be certainty to all parties as to the extent of the turbine types permitted within a relatively limited range and I am satisfied that all environmental impacts have been adequately considered.

8.6. Substation and Grid Connection

8.6.1. The application includes both a substation and a grid connection.

Substation

8.6.2. Permission is sought for the construction of a control building/substation with a fenced compound previously permitted under 14/50553 and extended under 19/51227. There is already an existing substation in situ on the west side of the L2563 associated with Loughderryduff wind farm. The proposed substation is to be located immediately adjacent to this. A permanent planning permission is being sought. It is stated that it would become an asset of the national grid under the management of EirGrid and it is not intended that it would be decommissioned.

8.6.3. The substation compound is in the same location as permitted. The proposed substation building is 107sqm in floor area with a height of 4.7 metres and an external finish of nap plaster with a blue/back slate roof, also as permitted. An increase in palisade fence height from 2.4 metres high to 2.6 metres high is sought but, overall, the proposed substation element is effectively as permitted.

8.6.4. Though it is not referenced in the EIAR I assume that a new application for the substation and compound is being sought, despite there being a valid permission for same, is so each element of the overall development would have the same planning lifetime.

8.6.5. Having regard to the planning history of the site I do not consider that there is any issue of concern with the proposed substation.

Grid connection

8.6.6. There is an existing substation adjacent to the proposed substation, as refenced in the previous paragraphs. Page 9 of the EIAR states ‘All elements of the Development (including the Grid Connection) have been assessed as part of this EIAR’. Section 2.5.8 of the EIAR states that the adjacent Loughderryduff wind farm is connected to the national grid at Glenties 38kV substation approx. 6km to the south east and it is envisaged that the proposed wind farm will connect to the grid via the adjacent Loughderryduff substation. In my view this addresses the issues raised in the O’Grianna case relating to the taking into consideration of the grid connection in the EIAR.

8.6.7. The proximity of the existing substation and its ability to connect the energy generated from the proposed wind farm to the national grid, thereby removing any grid connection route works outside the site boundary, is a significant benefit of locating the substations adjacent to each other.

8.6.8. I do not consider that there is any issue of concern with the proposed grid connection.

9.0 Environmental Impact Assessment (EIA)

Introduction

9.1. This section of the inspector's report comprises an EIA of the proposed development. Some of these matters have already been referred to in the planning assessment, above. This section of the report should be read, where appropriate, in conjunction with the relevant sections of both the planning assessment and the AA (section 10), below.

9.2. The application was accompanied by an Environmental Impact Assessment Report (EIAR) prepared by Jennings O'Donovan, dated August 2022. The EIAR comprises a Non-Technical Summary (Volume 1), the EIAR (Volume 2), Appendices (Volume 3), and LVIA Photomontages (Volume 4). A revised Biodiversity chapter was submitted as part of the grounds of appeal.

9.3. The proposal falls within Schedule 5 Part 2 Paragraph 3 (Energy Industry) (i) of the Planning & Development Regulations, 2001 (as amended) i.e. 'Installations for the harnessing of wind power for energy production (wind farms) with more than 5 turbines or having a total output greater than 5 megawatts'. An EIAR is required because the proposed turbines would have a capacity of 10.35MW.

9.4. The application falls under the requirements of Directive 2014/52/EU. As per article 3(1) the EIAR identifies, describes, and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health, (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC, (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape, and (e) the interaction between the factors referred to in points (a) to (d). Article 3(2) requires that the effects referred

to in paragraph 1 on the factors set out shall include the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned. Though no specific major accidents or disasters chapter is provided in the EIAR, the issue is addressed in section 5.4.1.

9.5. I have carried out an examination of the information presented by the applicant. I am satisfied that the EIAR, including the revised Biodiversity chapter, has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR is up to date, adequately identifies and describes the direct, indirect, and cumulative effects of the proposed development on the environment, and complies with article 94 of the Planning & Development Regulations, 2001 (as amended).

9.6. The four environmental factor groups (a) to (d) set out in section 9.4, above, are addressed within this EIA. Both population and human health (a) and biodiversity (b) have their own individual chapter in the EIAR; chapters 5 and 6 respectively. The factors outlined in (c) are addressed individually/in combination in chapters 7, 8 and 11, and the factors outlined in (d) are addressed in chapters 10, 13 and 14. There are overlaps in chapters, as acknowledged in table 1.2 of the EIAR. The interactions of the foregoing are considered in chapter 16.

9.7. Chapters 1 to 4 of the EIAR are summarised in paragraphs 9.8-9.13 of this inspector's report. The subsequent sections address each of the environmental factors. The headings are those used in the EIAR. The content of each EIAR chapter is summarised with relevant sub-headings as per the chapter, though not all chapter sub-headings are necessarily summarised. The 'Assessment & Conclusion' section at the end of each chapter summary is my assessment and conclusion of that particular environmental factor. This section of the report should be read, where necessary, in conjunction with the relevant planning assessment and AA sections.

9.8. Chapter 1 (Introduction) of the EIAR provides, inter alia, definitions of terms used in the EIAR, a site location description, planning history, a legislative background to EIA, guidance documents referred to in the preparation of the EIAR, an overview of the need for the proposed development (to produce renewable energy for the national grid to transition to a low carbon economy), contributors to the EIAR, an overview of the structure of each chapter (including a general framework for assessment of the

significance of effects and how the proposed range of turbine dimensions has been assessed within each relevant chapter), and the results of the pre-application scoping process.

9.9. Chapter 2 (Development Description) provides, inter alia, a project description and a description of the site location and environs (there are 17 houses between 630 metres and 1km of a proposed turbine, mainly to the north east). Table 2.1 and figure 2.2 illustrate the eight operational and one consented wind farms, including Loughderryduff, within a 20km radius. Detail is provided on the proposed turbines and foundations and hardstands (likely areas of 18-22 metres in diameter and 1,500m^2 per turbine and likely depths of 2.5-2.85 metres and 0.8 metre respectively). Approx 1,125 metres of existing access track will be utilised, upgraded, and widened as necessary to 5 metres. 0.86km of new access track is proposed. There will be no on-site borrow pit as materials will be imported to the site. An outline Construction Environmental Management Plan (CEMP) is submitted as an appendix. This will be developed post-consent/pre-construction. Notwithstanding that the public notices cite a 40-year operational life for the proposed development, section 2.9 of the EIAR states 'The Applicant is applying for a consent that is not time limited …' Should permission be granted, a condition should be attached restricting the operational life to a 40-year period as cited in the public notices, and in accordance with the proper planning and sustainable development of the area. This is a standard condition.

9.10. Chapter 3 (Alternatives Considered) provides a description of the alternatives considered by the applicant. These were assessed taking into consideration commercial, construction, operational, and key environmental constraints. The design of a wind farm must 'create a balance between limiting adverse environmental impacts whilst maximising energy yield'. The site is considered appropriate for reasons including the planning history, the limited ecological value of the land, good average wind speeds and generation capacity, utilisation of existing tracks, and access to the grid.

9.11. An alternative layout cited is that subject of the permission for the expired 11-turbine development. A 5-turbine layout (17.25MW) was also considered however 'geotechnical investigations led to the reduction of two turbines due to the presence of deep peat'. The layout as proposed was developed based on the layout of the consented site tracks. A key aim was to minimise effects on habitats and biodiversity

within the SAC as well as taking into consideration other environmental factors e.g. landscape and hydrology. Table 3.1 compares the three options (11-turbines, 5-turbines, and proposed 3-turbines) in the context of each EIAR chapter/environmental factor.

9.12. Solar energy was also considered as an alternative source of renewable energy. It is estimated a similar 10.35MW output would require an area of between 16.5 hectares to 20.7 hectares. Table 3.2 sets out a comparison of wind and solar in the context of similar environmental factors to table 3.1. Wind 'is the most efficient method of energy production with the lesser potential for significant, adverse environmental effects'. A similar exercise was undertaken in table 3.3 between an on-site borrow pit and importation from local quarries. Peatland and the SAC 'made the haulage of materials a more appropriate solution'.

9.13. Chapter 4 (Planning and Legislative Context) outlines wider international, European, regional, and council-level policy and legislation.

9.14. I have carried out an examination of the information presented by the applicant, including the EIAR and supplementary information, and the observations/submissions made during the course of the application and the appeal. A summary of the submissions/observations made by the planning authority, prescribed bodies, other third parties, and the applicant/appellant, have been set out in sections 3 and 6 of this inspector's report. The main issues raised by third parties specific to EIA can be summarised as follows (issues specific to AA are addressed separately in section 10 of this Inspector's Report):

- Impact on residential amenity e.g. health, noise
- Impact on biodiversity
- Visual and landscape impact.

9.15. These issues are addressed below under the relevant headings, and as appropriate in the reasoned conclusion and recommendation. I am satisfied that the EIAR and supplementary information has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR, and supplementary information provided by the developer, adequately identifies and

describes the direct, indirect, and cumulative effects on the environment and complies with article 94 of the Planning & Development Regulations, 2001 (as amended).

Chapter 5 – Population and Human Health

9.16. Assessment Methodology – Four study areas are defined: the site/within a 10km radius (Study Area 1), Co. Donegal (Study Area 2), the north west region (Study Area 3), and the state (Study Area 4). The interactions of other chapters/environmental factors with human health are noted e.g. noise, air and climate.

9.17. Baseline Description – Population and settlement patterns, economic activity and tourism, employment, and land use and topography aspects of the study areas are described. In terms of population and settlement patterns there are 18 houses within 1km of a turbine, though none within 600 metres. There are houses closer to the planning application red line site boundary. House/receptor locations are identified (H1, H2 etc., 98 no. in total) on figure 1.3 (not figure 2.2 as stated on page 93). Economic activity at a county level and tourism at both local and county levels (Study Areas 1 and 2) are set out. Surveys about tourists' attitudes to wind farms are outlined in section 5.3.2.4. Employment is described at a county level, as is land use and topography.

9.18. Assessment of Potential Impacts – These are considered in the context of accidents/disasters (incorporating health and safety) and the four categories cited in the previous paragraph. Properly designed and maintained turbines are considered to be a safe technology. Table 5.1 summarises impacts of the proposed development in terms of accidents and disasters on environmental factors e.g. peat stability, hydrology, traffic and transport, and turbine safety. A number of these are more robustly addressed in the respective relevant EIAR chapters. 'With mitigation measures in place, it is considered unlikely that the impacts on population and human health … would be significant and can be ruled out …'

9.19. A slight positive impact is predicted at local level in terms of settlement pattern. Throughout the project lifetime employment will be both created and maintained, and construction phase workers would most likely use local commercial businesses. Rates will be paid, and a community benefit package provided. The EIAR considers the proposed wind farm 'will not have any adverse impacts on tourism or tourism related

infrastructure in the vicinity of the site'. Approximately 30 people will be employed at peak construction. Land use and topography impact is predicted to be slight, direct, and negative.

9.20. Mitigation Measures and Residual Effects – No negative impact of significance has been established. Principle potential effects arising from works tend to relate to construction traffic (chapter 15). A SCADA system will monitor the operational performance. The residual risk is assessed as being imperceptible and long-term.

9.21. Cumulative Effects – Cumulatively with the adjacent wind farm, the effect is considered to be positive in terms of renewable electricity generation. It would also contribute towards reducing fossil fuel use, a positive impact on human health. There are no significant cumulative impacts on landscape and visual amenity, or from noise or shadow flicker (all examined more robustly in other chapters).

9.22. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions on file, and all supplementary information. Wind farms are a common sight in Ireland and are encouraged in principle in planning policy as a mechanism to generate renewable energy and reduce the carbon footprint. Some of the impacts raised in the grounds of appeal are interlinked with other factors and these are assessed in more detail elsewhere in this inspector's report.

9.23. I note the applicant's reference in the chapter to a number of surveys on attitudes to wind farms. I consider this element of the chapter to be of relatively limited value given these date between 2002 and 2012 when there were comparatively fewer wind farms with turbines of smaller scale than those proposed in this application.

9.24. Health impacts and risk of accidents are cited in third party submissions. Health issues overlap with and are more directly assessed in other relevant chapters of this inspector's report. Health impacts are not directly addressed in the Wind Energy Development Guidelines (2006). Notwithstanding, limits are set within the guidelines for the protection of amenity of the local population such as those relating to noise and shadow flicker. Notwithstanding the draft revised guidelines, the 2006 guidelines are the guidelines currently in place in relation to noise and shadow flicker limits. As set out in section 5.4.1 of the EIAR, wind turbines are considered to be machines and there are duties on manufacturers in relation to the construction process. I do not

consider that issues of fire, ice throw, structural failings etc. are significant issues in the consideration of the acceptability, or otherwise, of a wind energy development.

9.25. Overall, 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 there are wider positive benefits in terms of the production of renewable energy. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on population and human health.

Chapter 6 – Biodiversity

9.26. A revised EIAR biodiversity chapter was submitted as appendix F to the grounds of appeal. It is this chapter that is summarised in this section and is subject of the assessment and conclusion. Some additions to the original chapter include reference to a post-planning authority decision additional habitat and vegetation survey, an expansion of commentary on bird data (pg. 119), an appendix (6.2) showing the detailed results of habitats and vegetation surveys from November 2022, inclusion of merlin as a species in table 6.24, limited additional commentary on merlin in section 6.5.2.3, and additional operational phase mitigation.

9.27. There is an overlap between biodiversity and AA. Notwithstanding, issues specific to AA are separately addressed in section 10 of this inspector's report.

9.28. Methodology – Habitat surveys were carried out on 31st July and 7th October 2020 and on 3rd November 2022. Bird surveys were carried out. VP survey times and dates from two locations are set out in table 6.2. These range between 14th November 2019 and 26th August 2020. Two breeding bird transects were also completed during the 2020 breeding season on four dates. Nearby lakes were census checked during both seasons. Bat activity surveys were undertaken during the 2020 bat activity season. Herpetofauna, butterfly, and invertebrates recorded during field surveys were noted.

9.29. Criteria for ranking bird and bat sensitivity and impact assessment methodology is set out in section 6.2.4 of the EIAR.

9.30. Receiving Environment – The site is described in terms of topography and land type and use. The position of part of the site within the boundary of West of Ardara / Maas Road SAC is noted. It is also within West of Ardara / Maas Road pNHA. No rare, threatened, or protected species were identified as occurring in the vicinity on foot of

a review of the National Biodiversity Data Centre website. Table 6.13 sets out the habitats at the relevant infrastructure locations i.e. turbines and hardstands, access tracks, cabling, and substation.

9.31. In terms of fauna, the streams crossed by the proposed development are unsuitable for otters. They are of low fisheries potential and offer sub-optimal habitat. No sign of otters was found around Lough Namanlagh. No badger setts occur in the vicinity of the proposed wind farm. While hares are likely to occur, no evidence of same was noted. There is suitable habitat for pine martens and red squirrels. Other mammals likely to occur in the general area are foxes, which are likely to hunt widely, rabbits, hedgehogs, wood mice, brown rats, and pygmy shrews. There is a low habitat suitability for bats and in the 2020 surveys only low activity levels were recorded.

9.32. Target bird species (SCIs of SPAs located in the wider area) recorded in the 2016 and 2017 and 2019 and 2020 surveys were cormorants (only in 2016 and 2017), herring gulls (the most frequently observed sensitive species in 2019/20, though significantly lower than the number of observations recorded in 2016/17), peregrine (one observation in the more recent survey), and merlins (limited observations during both survey periods). Unrecorded target species were barnacle geese, Greenland white-fronted geese, shags, golden plovers, dunlins, and red-throated divers. Secondary sensitive species observed in the 2019/20 surveys were hen harriers, buzzards (the most active), mallards, herons, lesser black-backed gulls, kestrels, and red grouse. Illustrated flight paths of these species recorded in the most recent survey period are attached to the EIAR as figures 6.8 – 6.17. Secondary sensitive species recorded in 2016/17 included red grouse, kestrels, buzzards, golden eagles, and sparrowhawks. Other birds of conservation concern recorded, not considered to be at risk from wind farms, were skylarks (widespread throughout the site), starlings (frequently observed), stonechat (recorded in all breeding surveys), and swallows (consistently recorded).

9.33. The 2020 breeding bird transect survey results are set out in tables 6.17 and 6.18. The most notable species recorded was meadow pipit with other species mainly being passerine birds. Results from 2017 transects are also set out. These also noted meadow pipit plus red grouse. Lake censuses were carried out on a monthly basis between November 2019 and August 2020 on five nearby lakes (Namanlagh, Nagurragh, Derryduff, Aderry, and Doo). Low numbers of mute swan, cormorant, heron, and mallard were variously recorded.

9.34. Frogs were found frequently. Neither common lizard nor smooth newt were observed. The streams are of low fisheries potential and are prone to drying out. Marsh fritillary is not considered to rely on the lands within the site.

9.35. Site evaluation is addressed in section 6.3.6 of the EIAR. Habitats within the SAC at the proposed development site are considered to be of local importance (lower value) because of the artificial surfaces, denuded cutover blanket bog, and poor quality wet heath and blanket bog mosaic habitat. The latter two 'are not representative of a qualifying habitat of the SAC'. Other areas of cutover blanket bog and wet heath within the SAC in this area are of local importance (higher value) as they are in poor condition. Lough Namanlagh to the north is an example of an oligotrophic lake QI in the SAC and it is of international nature conservation value. The wet heath area around T1 and the proposed cable from it to the proposed substation is of local importance (higher value).

9.36. The site is considered to be of low importance for otters. The non-volant mammal population is considered to be of local importance (higher value). There is a low site risk for bats. In terms of birds the site is not within any designated site though it is in the vicinity of established flight paths for some SCI species e.g. herring gull (West Donegal Coast SPA). Other SCI species have been infrequently recorded. Table 6.21 determines which bird species comprises key/sensitive avian receptors, based on their occurrence within the site. The EIAR has identified cormorant, herring gull, red grouse, buzzard, kestrel, greater black-backed gull, lesser black-backed gull, mallard, heron, meadow pipit, and skylark as such. Herpetofauna (frogs) is considered to be of local importance (higher value), watercourses within the site of local importance (lower value), and Lough Namanlagh of local importance (higher value) as it supports a population of brown trout.

9.37. Potential Impacts of the Development – Construction phase impacts will result to the designated nature conservation areas, to habitats, and to fauna and are set out in section 6.5.1. The NIS outlines impact to European sites. Other pNHAs are not linked to the site by surface water catchment or any other pathway. There is no pathway from any NHA.

9.38. In terms of potential impacts to habitat, direct loss 'will be confined to areas occurring under the footprint of the turbine locations and in particular the footprint of the

hardstand associated with the three turbines, new sections of access tracks, and internal cable trenches' (pg.158). The substation and construction compound will be on existing made ground. Table 6.22 of the EIAR describes the elements of the proposed infrastructure, the habitats affected, and the significance of the loss. The significance of direct habitat loss from the turbines, hardstandings, cabling from T1, and new access track for T3 is considered to be of permanent, minor significance. Table 6.23 of the EIAR describes the significance of indirect impacts to habitats from the various elements of the proposed development e.g. construction vehicle movements, excavation and installation of foundations, access tracks and trenches, and strengthening culverts/bridges. The potential pre-mitigation significance range depends on the habitat affected i.e. cutover blanket bog/wet heath mosaic is cited as 'Long-term to permanent; negligible to minor; negative impact' whereas watercourses and the lakes are cited as 'Short to long-term; moderate to major negative impacts'.

9.39. In terms of potential impact to fauna, there is an impact of moderate significance to otters through potential interaction with the site during construction and potential impact to water quality. There is no potential for negative impact to badgers and negative impact to bats is extremely unlikely. Construction phase impacts to birds can result from habitat loss, disturbance, and displacement. Loss of habitat will not negatively affect the availability of suitable foraging habitat for raptor species. Red grouse was the only sensitive target species recorded to be nesting or breeding on site. This was during the 2016/17 surveys, and they were not recorded in the 2020 breeding season survey. The minor loss of habitat will not have the potential to negatively affect the overall potential of the surrounding area to support breeding red grouse. A study suggested red grouse are sensitive to disturbance during wind farm construction activity though densities recovered after construction suggesting the effects are short-term. There is considered to be a low magnitude effect on red grouse. 'Passerine species are likely to be the only species at risk of experiencing disturbance and displacement during the construction phase' (page 167) though it suggested the construction phase may be beneficial to skylark as a result of vegetation disturbance. The construction phase is likely to have a temporary effect and will be influenced by the timing of construction activity. Table 6.24 of the EIAR sets out 12 bird species and describes the potential impact and impact significance of these. Impact significances for all species is either low or very low significance.

9.40. There will be an impact of minor significance to amphibians. Construction phase activities that could result in the potential to affect fish and aquatic fauna are set out e.g. release of pollutants and nutrients.

9.41. The operational phase impacts are set out in section 6.5.2 of the EIAR. Impacts on European sites are addressed in the NIS. Other pNHAs or NHAs will not be at risk at the operational stage.

9.42. The operational phase will not cause additional significant direct impact to the quality and functionality of the habitats occurring. Increased hardstanding will have the potential to lead to changes in the volume and nature of surface water runoff. The use of construction materials with a different mineralogical composition to that of the surrounding substrate can lead to changes in the hydrochemistry of the substrate.

9.43. In terms of potential impact to terrestrial fauna otters are extremely unlikely to be disturbed during operation though could be affected by contamination of watercourses. No effects to badgers are predicted. Given the low level of activity recorded for bats during monitoring a low risk of collision is predicted. Operational phase impacts of a wind farm to birds are displacement, loss of habitat, barrier effects, avoidance, and collision. Commentary is provided on displacement, loss of habitat and collision. No major concern was identified. Table 6.25 outlines the significance of potential operational phase impacts to key species. Impact significance ranges from very low to low.

9.44. The risk of water contamination during the operational stage is a concern for amphibians and aquatic fauna.

9.45. The loss of terrestrial habitat will not have the potential to combine with the loss associated with other projects in the vicinity to result in significant negative cumulative impacts to semi-natural habitats of conservation importance. 12 bird species are considered in an assessment of the cumulative impact of the proposed wind farm with other operational and permitted wind farms. No significant cumulative effects are predicted. There is a cumulative impact of low significance to bats when considered with the adjacent wind farm.

9.46. Mitigation Measures – Construction phase mitigation measures are categorised into mitigation by avoidance, mitigation by reduction, and mitigation by remediation. Mitigation by avoidance includes positioning the footprint in areas that are not

ecologically sensitive, restricting access to the development footprint, and avoiding construction activity during high rainfall. Mitigation by reduction includes sub-headings of water quality and aquatic fauna (for example implementing all mitigation measures in the Surface Water Management Plan (SWMP), regular examination of watercourses and a water sampling protocol, use of detention ponds etc.), non-volant mammals (sealed storage and graded excavations), birds (commencement outside of breeding season and noise mitigation), and Ecological Clerk of Works (ECoW). An ECoW will be appointed for the duration of construction works and their responsibilities are outlined. Mitigation by remediation will be achieved by storing excavated material and reinstating it following completion of construction.

9.47. During the operational phase an Environmental Management Programme will be implemented. Ongoing monitoring of the drainage network will be undertaken. Mitigation relating to peatland habitat management and enhancement is set out such as restricting turbary, grazing, and burning activities, blocking existing artificial drainage features which is a highly effective method of raising water tables as a precursor to blanket bog restoration, and positive vegetation enhancement measures. These measures will be monitored.

9.48. Residual Impacts of the Development – There will be a minor permanent loss of poor condition habitat, negligible in the context of the extent of the habitats, and will not adversely affect the status of the surrounding ecological resource or the SAC. Mitigation will ensure impacts to water quality, lakes, and aquatic fauna is avoided. Significant residual effects on mammals and amphibians are extremely unlikely. The residual collision risk to birds is low. No significant residual risk to bats is anticipated.

9.49. Monitoring – The measures outlined in the Environmental Management Programme, Habitat Management Plan, and SWMP will be implemented throughout the operational phase.

9.50. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions on file, and all supplementary information. The assessment and conclusion for this chapter should be read in conjunction with section 8.3 and section 10 of this inspector's report as they are heavily interlinked. The impact of the proposed development on biodiversity is a significant matter when assessing wind energy development and it is an issue of concern raised in the third-party submissions and

observations. The issues raised in the observations are largely broad and general biodiversity concerns rather than specific issues.

9.51. The proposed development involves the provision of wind turbines and their foundations, hardstanding areas, access tracks, underground cables, and a substation. Some of the access tracks and hardstanding areas are in-situ, though they need to be strengthened and widened. One of the submissions states that work to the access tracks and hardstanding was carried out after the expiration of the relevant planning permission. In its response to the grounds of appeal the planning authority notes that permission has expired but does not reference any unauthorised development issue.

9.52. The location of a significant area of the site within West of Ardara / Maas Road SAC means that there is a significant overlap between this chapter and the AA section of this report (section 10). This overlap would specifically relate to QI habitats and species of the SAC. In addition, given the nature of the proposed development i.e. wind turbines, SCI species of SPAs in the wider vicinity also come into consideration. Therefore this assessment and conclusion should be read with section 10.

9.53. I am generally satisfied that the chapter addresses issues of habitats and terrestrial fauna in terms of methodology, describing the receiving environment, outlining potential impacts, and setting out mitigation measures and I reiterate that issues specific to AA and QIs of the SAC in this regard are addressed in section 10.

9.54. The mitigation measures proposed are relatively standard measures for this type of development. Most of the mitigation measures use terminology such as ‘will’ but there are some which use ‘should’. A condition could be attached to any grant of permission that may issue that all mitigation measures should be read as ‘shall’ etc. unless otherwise agreed in writing with the planning authority. I note in particular as a mitigation measure the appointment of an ECoW for the proposed development and reference in the mitigation measures to a project ecologist.

9.55. I note that there are a number of apparent errors and inconsistencies in the revised biodiversity chapter submitted with the grounds of appeal, particularly where it relates to birds. For example:

- Multiple species cited in table 6.21 (Key Avian Receptors) are assigned incorrect status e.g. golden eagle, kestrel, lesser black-backed gull, and mallard.
- Great black-backed gull is included in table 6.21 despite not being previously referenced in the chapter.
- Hen harrier was not included as a primary target species as per table 6.1 as it is not an SCI of an SPA in the vicinity. However it was included in section 6.3.5.3.1 which outlined the VP survey results for target species and was the only non-SCI species included in the relevant section. A map of a recorded flightline was provided as figure 6.11. Notwithstanding, it was not included in table 6.21.
- Merlin was designated as a species of very high sensitivity in table 6.21, as befits its status as an SCI of an SPA in the vicinity, but only as high sensitivity in table 6.24 (Significance of Potential Construction Phase Impact to Key Avian Receptors). The impact significance should be low rather than very low. In addition, buzzards are referenced in the description of potential impact.
- Merlin was not identified as a key avian receptor in table 6.21 but yet was included in table 6.24.
- Kestrel is cited as a species of low sensitivity in tables 6.24 and 6.25 (Significance of Potential Operation Phase Impact to Key Avian Receptors). However, as it is a red-list species I consider it should be a high sensitivity species, notwithstanding that it would not affect the impact significance of very low in either table.
- Lesser black-backed gull and mallard are cited as a species of low sensitivity in table 6.24. However, as they are amber-list species I consider they should be medium sensitivity species, notwithstanding that it would not affect the impact significances of very low. In addition, kestrels are referenced in the descriptions of potential impact for lesser black-backed gull.
- Skylark is cited as a species of low sensitivity in tables 6.24 and 6.25. However, as it is an amber-list species I consider it should be a medium sensitivity species. Therefore the impact significances should be low and not very low.

- Table 5.2 on page 173 should be table 6.25.
- There were 12 key avian receptors cited in table 6.24. However, only nine species were included in table 6.25. Merlin, mallard, heron, and lesser black-backed gull was excluded from table 6.25 but common gull was included, a species not referenced elsewhere in the chapter. Merlin and mallard were specifically referenced elsewhere in section 6.5.2.3 of the EIAR in terms of operational phase impacts to birds, but heron and lesser black-backed gull were not.
- Though table 6.25 relates to the operational phase, the description of potential impact to cormorants refers to the construction phase and construction footprint, but not the operational phase. Similarly the description of potential impact to kestrels just refers to the construction stage.
- The sensitivity of red grouse in table 6.25 is cited as high but then it is described as very high in the impact significance column. Notwithstanding that it is a high sensitivity species the impact significance for a low magnitude effect to a very high sensitivity species according to table 6.10 is medium, and not low as per table 6.25.
- Kestrels are referenced in table 6.25 in the description of potential impact columns of both greater black-backed gull and common gull.
- Merlin was not included in table 6.26 (Assessment of Cumulative Effects with other surrounding Wind Farms) despite being included in table 6.24.

9.56. The previous bullet points are examples of the apparent inconsistencies, mistakes, and typographical errors that relate to birds in the biodiversity chapter, and I do not purport that this is an exhaustive list of same. As a result, the contents of the chapter in so far as it relates to birds is, in my opinion, inconsistent.

9.57. In relation to the studies cited in relation to the operational phase impacts on birds (displacement / loss of habitat / collision) I note that the studies cited in pages 173 - 175 are generally quite old (one from 1989, eight between 1990 and 1999, eleven between 2000 and 2009, and the two most recent studies referenced being from 2012 and 2015). The studies cited may not reflect more contemporary turbine sizes.

9.58. A critical issue with this application is that of the timings of the bird surveys. This is raised by the Department of Housing, Heritage and Local Government in its nature/heritage submission, and it relates equally to the biodiversity chapter of the EIAR and to the AA. It states that best practice guidance indicates that 'the primary supporting bird survey data should cover a minimum of the previous two years and is pertinent for three years from collection. In this case it appears that there is not 2 successive years of data and much of the data relied on is older reference material that may not accurately reflect changes in conditions on site since 2017'.

9.59. The guidance referred to is Scottish Natural Heritage 'Recommended bird survey methods to inform impact assessment of onshore wind farms' (March 2017). Though it is only guidance, I consider it relevant given the proximity of SPAs, its reference by the Department, and also the applicant's reference to same in the methodology section of the EIAR. Table 6.2 of the EIAR identifies that bird surveys took place between 14th November 2019 and 26th August 2020.

9.60. In terms of the bird survey period, section 3.5 of the guidelines state, inter alia, that a minimum of two years survey is recommended. In more sensitive bird areas two years survey will generally be required. Data less than five years old is considered to be acceptable. Contrary to the Board's submission it is unclear where the guidelines specifically require two successive years of bird survey data. My reading of section 3.5 of the guidelines allows for surveys for any two years out of the previous three/five (see following paragraph).

9.61. Notwithstanding that the application is a new stand-alone application, and not an extension to an existing permission or revision of an extant permission per se, I acknowledge its location adjacent to an existing wind farm and the planning history of the area. I note the applicant's position to this in relation to 'box 1' of the guidelines. This states that data collected within the previous five years is acceptable 'or within 3 years if the populations of key species are known to be changing rapidly'. The footnote on page 119 sets out the applicant's position that populations of key species are not changing rapidly. I concur with the applicant in this regard.

9.62. A 'Maas Wind Farm Ornithological Assessment', prepared by Doherty Environmental and dated August 2017, was submitted as appendix 6 to the EIAR. Page 1 states 'These surveys were undertaken to gather baseline information of flight, breeding,

foraging and roosting activity associated with sensitive species in the vicinity of the existing Loughderryduff Wind Farm and the proposed 11-turbine Maas Wind Farm'. Two VPs were used. They are in the same positions as those used for the 2019/2020 surveys. VP surveys took place between 19th May 2016 and 1st August 2017. 43 VP surveys were undertaken with 27 hours at VP 1 and 24 hours at VP 2 (51 hours) during the winter season and 46.5 and 48 hours during the breeding seasons (94.5 hours). This is relatively similar to the totals in the 2019/2020 surveys.

9.63. The issue is whether it is appropriate to accept the 2016/2017 bird surveys as part of the current planning application. The application was made to Donegal Co. Co. in August 2022. I consider that it is reasonable to accept the survey data from the 2016/2017 surveys as part of the survey work for the current application.

9.64. Having regard to the foregoing, and notwithstanding the issues set out in the assessment and conclusion, I am satisfied that the revised biodiversity chapter adequately addresses the impact of the proposed wind farm development on general biodiversity. I note again at this point that issues specific to AA in terms of habitat are separately addressed in section 10. I conclude in that section that the loss of active blanket bog and wet heath habitats from the SAC would adversely affect the site integrity of West of Ardara / Maas Road SAC. Notwithstanding, I am satisfied that the potential for impacts on general biodiversity can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on general biodiversity.

Chapter 7 – Soils and Geology

9.65. Baseline Description – The main turbine hardstands required will be approx. 80 metres by 25 metres (1,500m^2) and approx. 0.8 metres in depth. There will be a total material volume of approx. 3,600m^3. Turbine foundations will range between 18 and 22 metres in diameter with a depth between 2.5 and 2.85 metres. Existing access tracks will be upgraded. Approx 1.125km existing tracks will be used, with approx. 806 metres proposed. Topography is gently undulating, occasionally interrupted by steep rocky escarpments. The area is covered in blanket bog with various small lakes interconnected by small streams.

9.66. The site is largely located on low-lying undulating terrain with varying slope and ground conditions. The terrain is a mixture of bedrock outcrop with blanket bog. Probing shows varying peat depth from shallow to very deep. 'Peat depth at the turbine locations is generally shallow based on the data available'. There was an average peat depth of 0.7 metres at T1, 1.3 metres at T2, and 1.5 metres at T3. Peat depths are mapped (appendix 7.5) and its distribution categories tabulated (table 7.32).

9.67. The Geological Survey of Ireland (GSI) landslide susceptibility mapping shows the turbines in areas of low and moderately low risk. There are isolated pockets of deep peat in the vicinity of T2 and T3. Tables 7.33 and 7.34 summarise the peat stability risk assessments, both for factor of safety and risk ranking. Peat stability is assessed as acceptable at the three turbine locations and surface water crossing (north of T3) and risk ranges from very low to high at the same four locations. Additional commentary is provided.

9.68. Assessment of Potential Effects – Given the condition of the site, environmental attributes are considered to be of very high importance with high sensitivity though the site area is very minor in the wider context. Potential pre-mitigation effects of the construction phase include subsoil and bedrock removal, storage of stockpiles, and ground stability and contamination issues. It is estimated 10,000m^3 of peat soil is required to be excavated. This would have a substantial impact. Land take is an operational phase effect.

9.69. Mitigation Measures and Residual Effects – There are four phases cited: design, construction, operation, and decommissioning. The vast majority of mitigation measures and residual effects set out relate to the construction phase and relate to land take, subsoil and bedrock removal, storage of stockpiles, vehicular movements, ground stability, soil contamination, and material and waste management. Some of these are again subdivided under other headings such as mitigation by avoidance, mitigation by good practices, mitigation by reduction, mitigation by reuse etc. Negative impacts are considered to be localised with the exception of indirect impact on downstream hydrology. The applicant considers that restoration associated with decommissioning should be evaluated closer to that time. Long-term permanent effects such as the replacement of natural peat and subsoil etc. with concrete and other materials will occur post-decommissioning as removing foundations would likely result in more impact than leaving them in situ.

9.70. Cumulative Effects – Given that effects are generally localised no significant cumulative effect is predicted.

9.71. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions on file, and all supplementary information. Wind energy development in this type of habitat was anticipated by the Wind Energy Guidelines 2006, appendix 4 to it being titled 'Best Practice for Wind Energy Development in Peatlands', and a number of wind farms are located in bogland environments. This chapter overlaps with the hydrology and hydrogeology chapter.

9.72. The mitigation measures are relatively standard measures for this type of development. I note that one of the cited measures is 'All Site excavations and construction will be supervised by a geotechnical engineer/engineering geologist' which is a positive construction practice. Some of the proposed mitigation measures use terminology such as 'should' and 'it is recommended'. I consider that all mitigation measures should be read as 'shall' etc. unless otherwise agreed in writing with the planning authority. This can be included as a condition should permission be granted. I am satisfied that there is a relatively low risk of landslide or bog burst at this location having regard to the mapping attached as appendices and proposed mitigation measures. I note that issues of peat stability were not an issue of concern in the planning authority's planning report.

9.73. The applicant acknowledges that there would be a residual impact on the soils and geology of the site should permission be granted. However, that is unavoidable for the construction of access tracks, hardstanding, and turbine foundations. I acknowledge that permission was previously granted on site for this type of development and that certain works were previously carried out in that regard. The specific impact on the SAC, and in particular the relevant QI habitats that exist in the vicinity of the proposed wind farm, is addressed elsewhere in this inspector's report.

9.74. Overall, and apart from the specific impact in so far as it relates to QI habitats, I am satisfied that the potential for impacts on soil and geology can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on soils and geology.

Chapter 8 – Hydrology and Hydrogeology

9.75. Baseline Description – Rainfall and evapotranspiration data is provided for the general area in section 8.3.4. The surface water network is mapped in appendix 8.2a and 8.2b. Six surface water crossings are identified; four of them across the public road. The site is in one catchment (Gweebarra-Sheephaven ID 38), but two sub-catchments (Maas_010 for T1 and T2 and Abberachrin_010 for T3). T1 drains to Lough Namanlagh, T2 and the central area drains to a stream entering Lough Nagurragh and then into Lough Derryduff, and T3 and the southern area also drains to Lough Derryduff by streams via Lough Doo. They all eventually drain to the sea, T1 to the Atlantic north of the site and T2 and T3 to Loughros More Bay to the south west.

9.76. Water Framework Directive (WFD) status 2013-2018 for surface waters directly draining the site is 'good' and continues for all rivers further downstream. Associated lake waters are also 'good'. The surface waters draining the site, or immediately down gradient, are not mapped by the EPA as being at risk of deteriorating. Ground waterbody status in the 2013-2018 period is designated 'good'.

9.77. The site has a classification of a 'Poor Aquifer - Bedrock which is Generally Unproductive except for Local Zones'. The groundwater vulnerability map (appendix 8.6) indicates the overall site boundary is underlain by areas of both high and extreme vulnerability and areas of rock at or near the surface. The potential groundwater recharge rate varies significantly given the areas of both peat and rock at or near the surface, but the majority of rainwater will drain as surface water runoff, characteristic of peat areas. A net runoff increase of 0.39% has been calculated in appendix 8 (though page 378 states 1.12%). Lakes used to supply drinking water to the area are not within the catchment of the site.

9.78. Assessment of Potential Effects – The sensitivity of the receiving environment ranges from low to medium (groundwater/bedrock aquifer) to very high (surface water and bog water in areas of intact habitat and/or designated areas). The site has already experienced impacts to its baseline due to construction of access tracks and peat excavation from previous permissions.

9.79. The potential pre-mitigation effects of the proposed development on ground water and surface water are set out. In relation to ground water there is the potential for the proposed development to impact on bog water levels proximal to excavations and

drainage channels. The scale of the impact is dependent on the depth of the excavation and subsequent lowering of the water table at that location which can vary depending on the underlying characteristics. In relation to local ground water levels and wells a significant impact is not considered likely. In relation to surface water there are a number of construction phase potential effects such as the release of suspended solids, the release of hydrocarbons, waste water sanitation contaminants, or construction or cementitious materials, excavation dewatering and construction water, diversion of drainage, and watercourse crossings. There are six crossings. Four are already culverted across the public road, one is to be upgraded/improved north of T3 along the existing access track, and a new one is required for the grid cable connection from T1 to the substation. At the operational stage, increased hydraulic loading is cited.

9.80. Mitigation Measures and Residual Effects – A number of detailed mitigation measures are contained within section 8.5 of the EIAR. In terms of mitigation by avoidance a constraints map was produced with buffers from watercourses and lakes and the proposed turbines and associated hardstands are outside the 50 metres buffer. The layout is 'the best layout design available for protecting the existing hydrological regime of the Site …' (page 266). Design mitigation measures (including preparation of a SWMP) include constructed drainage and attenuation features such as check dams and stilling ponds.

9.81. For the construction phase there are eleven sub-headings between pages 270 and 287 of the EIAR. The mitigation measures are grouped under these sub-headings and they are: earthworks – general wind farm, excavation dewatering, construction water management, dewatering, treatment and discharge of trade effluent, release and transport of suspended solids, release of hydrocarbons, construction and cementitious materials, watercourse crossings (including at watercourse crossings 5 and 6 as per the map on appendix 8.2a, instream works, and diversion of drainage), groundwater contamination, groundwater extraction (no significant potential impact identified), monitoring (substantial monitoring including post-construction is set out), and emergency response. The residual impacts are set out in section 8.5.2.12 of the EIAR and range from 'neutral to negative, direct, imperceptible to slight, long term' (release of hydrocarbons to ground) to 'positive to neutral' e.g. the hydrological regime.

Operational phase mitigation relates to an increase in hydrological loading but the residual impact is considered to be 'positive to neutral'.

9.82. In terms of cumulative effects on water quality and hydrologic loading the development is not considered to significantly contribute to either.

9.83. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions on file, and all supplementary information. Wind energy development in this type of habitat was anticipated by the Wind Energy Guidelines 2006, appendix 4 to it being titled 'Best Practice for Wind Energy Development in Peatlands', and a number of wind farms are located in bogland environments. This chapter overlaps with the soils and geology chapter.

9.84. I note that whereas the EIAR (page 247) states that the site is within two separate sub-catchments i.e. Maas_010 for T1 and T2 and Abberachrin_010 for T3, these are actually the river sub-basins with the sub-catchments being Gweebarra_SC_010 and Owenea_SC_010, respectively. Both T1 and T2 are located immediately on the sub-catchment boundary which explains the differing drainage paths.

9.85. I also note the 'good' WFD status of the watercourses and associated lakes draining the T2 and T3 areas for the 2016-2021 period as per the Environmental Protection Agency (EPA) website, and their 'not at risk' status. This indicates that the existing wind farm is not having any negative impact on water quality in the vicinity. It would seem that the general T1 area would discharge directly to Lough Namanlagh. Like the other lakes, Lough Namanlagh has a 'good' and 'not at risk' status in the WFD 2016-2021 period. The watercourse discharging from the lake to the sea has a 'moderate' status in the same period. The 'at risk' status of this watercourse is 'review' i.e. 'either because additional information is needed to determine their status before resources and more targeted measures are initiated or the measures have been undertaken, e.g. a wastewater treatment plant upgrade, but the outcome hasn't yet been measured/monitored' (EPA). Groundwater status is cited as 'good' for the 2016-2021 period by the EPA and is also considered 'not at risk' of failing to meet WFD objectives by 2027. Having regard to the foregoing it can be considered that the water quality in the area is generally good and the existing wind farm has not had an adverse impact on same.

9.86. The mitigation measures cited are relatively standard measures for this type of development. Most of the mitigation measures use terminology such as 'will' but there are some which use 'it is recommended'. This includes 'it is recommended that an Ecological Clerk of Works (ECoW) is assigned to carry out monitoring at the Site …' (page 283) and responsibilities of the ECoW are set out. I consider that it should be a condition of any permission that an ECoW is appointed to oversee the development. Notwithstanding, I consider that all mitigation measures should be read as 'shall' etc. unless otherwise agreed in writing with the planning authority.

9.87. I am satisfied that the potential for impacts on hydrology and hydrogeology can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on hydrology and hydrogeology.

Chapter 9 – Noise

9.88. Assessment Methodology and Significance Criteria – The Operational Noise Study Area is within 3km of the site. The four locations selected are considered to be representative of the local noise environment. 'When compiling the baseline noise data care was taken to exclude any contribution from the existing windfarm' (page 296). The candidate turbine used for EIA purposes was a Vensys 126 – 3.8MW turbine with a hub height of 87 metres. Page 304 states this turbine 'has been selected as it reflects a worst-case scenario for the technical assessment as it generates the highest sound power levels of all turbines within the proposed range'. The proposed hub height range is acknowledged and page 304 also states 'A wind farm noise assessment is based on a standardised noise level referenced to a wind speed at 10m height. The change in hub height does not therefore change the maximum sound power level of any specific turbine'. In terms of cumulative assessment, the existing turbines/wind farm has been taken into consideration. Typically acceptable noise limits for the construction stage are set out.

9.89. Baseline Description – Baseline measurements derived from a survey carried out between July 16th and August 11th, 2021, at H2, H49, H67, and H88. Noise contribution from existing turbines was filtered out. Background noise levels for the four receptor locations are outlined in table 9.9. The author states existing turbines were inaudible

on the three visits to each site. The highest recorded sound ($L_{A90dB, 10\,min}$) was recorded at H49 at 9m/s (46.5dB).

9.90. Assessment of Potential Effects – Construction noise is the first effect cited. The construction process is not considered to be intensive and it is temporary. The main sources of noise will be construction of the foundations, hardstands, and upgrading of existing tracks. Precise levels cannot be specified until the plant is selected but typical construction-related noise is set out. Predicted activity at T1 to H2, the nearest receptor, is set out. Construction noise is predicted to be well within guidelines and is not significant. Vibration will also be not significant.

9.91. Predicted operational noise levels at each receptor are set out on in table 9.12 and figure 9.1 is a noise contour map which also shows showing receptor locations. The highest predicted level at L_{A90} is 38.3dBA at H2 at wind speeds of 7m/s – 10m/s, i.e. within the 43dB limit. Table 9.14 outlines predicted cumulative noise levels for the receptors. The highest predicted level is 48.5dBA at H39 at wind speeds of 9m/s-10m/s. H40 is 47.6dBA at the same wind speeds. These are the only two receptors over the 43dBA guideline limit. Figure 9.2 illustrates a cumulative noise contour map with receptor locations shown. Page 333 states that H39 and H40 'are financially involved in the project and furthermore the 3-turbine does not increase the noise environment at either of the two receptors' [sic].

9.92. Mitigation Measures and Residual Effects – For the construction phase no specific mitigation is required though general good practice guidance will be followed. Cumulative effects have been predicted and found to comply with noise limits.

9.93. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions on file, and all supplementary information. Wind energy development is generally located in rural areas where wind speeds are higher and required set back distances from sensitive receptors can be achieved. One of the main reasons behind set back distances is because of the possibility of noise pollution. I am satisfied that adequate receptor locations have been used in the assessment.

9.94. The proposed range of hub heights in the development description has been referenced in the chapter. I am satisfied that this addresses any issue as to whether the proposed range would result in noise levels beyond those set out in the EIAR.

9.95. Though the applicant has not identified any specific noise mitigation for the construction phase, I consider that a standard construction management plan condition which would include relevant measures, can be attached to any grant of permission that may issue.

9.96. Noise/infrasound is mentioned in several of the observations made on foot of the grounds of appeal, in particular in Prof. Evans' observation. Infrasound is addressed in section 9.2.4 of the EIAR. The EIAR notes that infrasound and low frequency noise and vibration is always present in the ambient environment and 'There appears to be little or no agreement about the biological effects of low frequency noise on human health and there is considerable evidence to suggest that there are no serious consequences to people's health from infrasound exposure from wind farms' (page 300). A 2013 study referenced, from a different Australian authority from that cited by Prof. Evans, states 'the contribution of wind turbines to the measured infrasound levels is insignificant in comparison with the background level of infrasound in the environment' (page 300). Two other studies, one American (2012) and one Finnish (2020), also refute the infrasound/public health link. I note the Draft Revised Wind Energy Development Guidelines (2019) include reference to infrasound. On four occasions the draft guidelines state that modern wind turbines do not emit any perceptible level of infrasound (pages 67, 161, 174, and 206). Notwithstanding, the 2006 Wind Energy Development Guidelines (2006) is the relevant planning policy document. There is no mention of infrasound in it. Therefore, as long as the proposed development complies with the noise limits as set out in the guidelines, as has been stated in this EIAR chapter which has been prepared by a competent expert, I do not consider that there would be an infrasound or noise issue should permission be granted. In this regard I acknowledge that the two receptors that would be adversely affected by the cumulation of the two separate projects, are financially involved.

9.97. Having regard to the foregoing, I am satisfied that the potential for noise impacts on the local area can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative noise impacts on the local area.

Chapter 10 – Landscape and Visual Amenity

9.98. The assessment and conclusion of this chapter 10 of the EIAR should be read in conjunction with section 8.2 (Planning Authority Reason for Refusal No. 2 – Visual Impact) of this inspector's report.

9.99. Introduction – Landscape impact assessment (LIA) relates to changes in the physical landscape brought about by the proposed development. It provides a measure of the ability of the landscape in question to accommodate the type and scale of change associated with the development without causing unacceptable adverse changes to its character. Visual impact assessment (VIA) relates to assessing effects on specific views and on the general visual amenity experienced by people. Visual impact may occur from visual obstruction (blocking a view) or visual intrusion (interrupting a view without blocking).

9.100. Assessment Methodology and Significance Criteria – The LVIA study area has a 20km radius and the 'central study area' has a 5km radius. Zone of theoretical visibility (ZTV) maps and photomontages support the LVIA. Assessment criteria for landscape effect and visual effect is set out in sections 10.2.5 – 10.2.6 of the EIAR.

9.101. Baseline Description – The site is described in terms of landform and drainage and vegetation and land use. Section 10.3.4 of the EIAR then outlines the landscape policy context and designations i.e. national wind energy guidelines, the relevant provisions of the County Donegal Development Plan 2018-2024 including the Landscape Character Assessment and Wind Energy Strategy [inspector's note – some objectives and policies cited in the EIAR have subsequently been amended/replaced by the Ministerial direction and are no longer accurate e.g. E-O-1 and E-P-12], and the applicable ecological designations. The site is contained within landscape type '0-200 metre Atlantic Blanket Bog' and in landscape character area (LCA) 30; Ardara Bays, Coast and Gaeltacht.

9.102. A ZTV is illustrated on figure 10.6. It is based solely on terrain and ignores all features which may screen views e.g. buildings and vegetation. Its main value is showing from where the proposed development would definitely not be visible due to terrain screening. There is potential clear visibility within much of the immediate surrounds. Comprehensive site visibility extends across much of the western and southern areas. 22 no. receptor locations (VRPs) were selected 'likely to provide representative views

of the development from different distances, different angles and different contexts'. These are outlined in table 10.6 and illustrated on figure 10.9. In terms of cumulative impact the EIAR notes that there are eight operational wind farms and one consented within the study area, including Loughderryduff. A cumulative ZTV map is provided. Limited pockets of areas, to all directions, would have views of the proposed turbines only.

9.103. Assessment of Potential Effects – Landscape character, value, and sensitivity is considered as is the magnitude of the landscape effect. The site and central study area is considered to have a medium landscape sensitivity with localised areas of higher sensitivity. The wider study area (5km-20km) has similar landscape characteristics but at a heightened scale. Its landscape sensitivity ranges between medium (lower lying areas surrounding urban centres) and high (coastal and upland areas).

9.104. The physical landscape of the site and central study area is affected by both the proposed turbines and all ancillary features whereas the landscape impacts on the wider study area relate exclusively to the proposed turbines. The proposed wind farm will have a modest physical impact as the footprint is not large and land disturbance and vegetation clearance will be relatively limited. Construction stage effects are considered to be not significant. The magnitude of landscape impact is deemed to be low in the central study area. Within the wider area it is deemed to be low-negligible, reducing to negligible at increasing distances. Significance of landscape effects is sensitivity of landscape weighed against magnitude of impact. The matrix in table 10.3 shows there would be a 'slight' landscape impact within the central study area. Thereafter significance will reduce. This also applies to the wider study area as it 'will only ever be a discrete background feature in relation to the immediate landscape setting'.

9.105. Photomontages have been submitted to illustrate the impacts from the 22 no. VRPs. A tabular analysis of the assessment of visual receptor sensitivity at each VRP is set out in appendix 10.1. Each VRP is individually described and considered in the appendix. The significance of visual impact ranges from imperceptible (VRPs 1 and 2) to moderate (VRPs 9, 12, and 13). In terms of visual impact the 'proposed turbines in combination with the existing turbines do not appear out of place and will likely be viewed as an extension/intensification of an existing land use' (page 373). In terms of

landscape impacts 'it is considered that the proposed development will not give rise to significant landscape effects within either the central or wider study area' (page 374).

9.106. In terms of cumulative impact the proposed turbines will almost always be seen with the existing Loughderryduff turbines. The cumulative ZTV indicates that only 1.8% of the study area would see proposed turbines only. There is not considered to be any cumulative impact with any wind farm other than Loughderryduff due to the considerable separation distances.

9.107. Mitigation Measures – There is very little that can be done to mitigate the operational stage view of the turbines. Some general measures are the colour (light grey), sunlight reflection (semi-matt finish), and rotation (all turbines will rotate in the same direction).

9.108. Summary of Significant Effects – 'This assessment has identified no potentially significant effects'.

9.109. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions on file, and all supplementary information. The assessment and conclusion for this chapter should be read in conjunction with section 8.2 of this inspector's report. Concern about the visual impact of the proposed turbines in the landscape is one of the main issues raised in third party submissions and it is one of the most frequent issues raised by third parties in wind energy development applications.

9.110. In terms of the landscape magnitude, 'medium' landscape sensitivity is defined in table 10.1 of the EIAR as 'Areas where the landscape character exhibits some capacity and scope for development. Examples of which are landscapes which have a designation of protection at a county level or at non-designated local level where there is evidence of local value and use'. 'High' landscape sensitivity is defined as 'Areas where the landscape character exhibits a low capacity for change in the form of development. Examples of which are high value landscapes, protected at a national or regional level (Area of Outstanding Natural Beauty), where the principal management objectives are likely to be considered conservation of the existing character'. A 'low' magnitude impact is defined as 'Changes affecting small areas of landscape character and quality, together with the loss of some less characteristic landscape elements or the addition of new features or elements'.

9.111. Having regard to the nature and character of the site and general area surrounding the proposed development I agree with the classification of landscape sensitivities and magnitude of impacts used in the EIAR and the conclusion that the landscape effect is slight. While the site area is rural, tranquil, open, and visually appealing, the site is divided by a public road, and there are nine wind turbines and areas of commercial forestry immediately adjacent.

9.112. In terms of visual impact, 22 no. VRPs were selected based on key views, designated scenic routes and views, local community views, centres of population, major routes, and amenity and heritage features. I am satisfied that the VRPs selected adequately provide a reasonably comprehensive illustration of the visual impact of the proposed development and no critical VRP has been omitted. The planning authority has not identified any such omission and nor have any of the third party submissions.

9.113. The visual receptor sensitivity and the magnitude of impacts of the VRPs are set out in appendix 10.1 and are to be read with the photomontages. I consider that it provides adequate illustration of the likely impact of the proposed turbines when viewed from a wide variety of study area viewpoints. While I am of the opinion that the visual impact of the proposed development may be somewhat downplayed by the applicant at times, for example VRPs 1, 5, and 18, I am satisfied that, overall, the accompanying commentary is reasonably accurate. I note that there appears to be a typographic error in appendix 10.1b in that the summaries refer to section 11.2.5 when it should be section 10.2.5.

9.114. I am satisfied that the EIAR adequately addresses the landscape and visual amenity aspect of the proposed wind farm development. This issue formed the basis of the planning authority's second reason for refusal. This is addressed in section 8.2 of this inspector's report. Having regard to the conclusion of section 8.2, the potential for landscape and visual amenity impacts are not considered to be such that a refusal of permission for the proposed development is recommended on the basis of landscape and visual impact.

Chapter 11 – Air Quality and Climate

9.115. Baseline – In relation to air quality the EPA has designated four air quality zones for Ireland. The site is in Zone D, rural areas away from large population centres. Ireland

is regarded as having some of the best air quality in Europe though some air pollution is experienced in larger urban areas. It 'is expected that air quality in the vicinity of the site is 'good'' (page 383). The climate is a temperate oceanic climate and is briefly outlined in section 11.6 of the EIAR.

9.116. Assessment of Potential Effects – The main potential source of impact to air quality during the construction phase is dust. Generally dust nuisance is most likely to occur within approx. 100 metres of its source so sensitive receptors (H1, H2 etc.) are not likely to be affected. 'Any effect of dust on vegetation will be confined to the construction and possibly the decommissioning phases and be short-term, slight, negative impact' (page 384). Emissions from plant and machinery during construction are a potential impact though like to be imperceptible. There are no such emissions with the operational phase.

9.117. To assess the impact of the proposed development on the climate the carbon emitted or saved as a result of the proposed development was determined using a carbon calculator. The model calculated that the proposed development is expected to give rise to 18,840 tonnes of CO_2 equivalent losses over its 40 year life. It is estimated that 375,719 tonnes of carbon dioxide will be displaced over the lifetime of the wind farm, with the 'payback' time being two years. There will be a small positive impact.

9.118. Mitigation Measures – In relation to dust these are contained in the traffic and transport chapter (chapter 15).

9.119. Cumulative Effects – Once operational the cumulative impact will be positive in terms of carbon reduction and the climate.

9.120. Assessment and Conclusion – I have considered the submissions on file, this chapter of the EIAR, and all supplementary documentation.

9.121. A main focus of overall planning policy is to reduce our carbon footprint and emissions, and renewable energy is one of the solutions. The applicant states that it would take approximately two years to displace the emissions equivalent to those used in manufacture and construction of the development. Therefore for the vast majority of its lifetime the proposed development would positively contribute to the reduction of carbon emissions and, although it would only play a small part in helping achieve national targets in this regard, it would be an additional part of a wider push in the provision of renewable energy infrastructure.

9.122. One of the issues raised in the observations received on the grounds of appeal was that related to the role of peat as a carbon sink. I note that this particular issue (loss of peat to accommodate the proposed development) has been taken into account by the applicant in calculating the carbon loss (177 tonnes of CO_2 equivalent from losses due to reduced carbon fixing potential and 1,395 tonnes of CO_2 equivalent from losses from soil organic matter (9% of total)) and carbon saving.

9.123. I am satisfied that the negative impacts on air and climate at the construction stage are slight and temporary and that, overall, there would be a positive impact on air and climate as a result of the proposed development.

Chapter 12 – Shadow Flicker and Electromagnetic Interference (EMI)

9.124. Both shadow flicker and EMI are assessed separately in the chapter.

Shadow Flicker

9.125. Assessment Methodology and Significance Criteria – Significance effects are categorised to occur where potential shadow flicker results exceed a maximum of 30 minutes per day or 30 hours per year. The study area is a 2km radius from turbines. The model calculates a theoretical worst-case scenario.

9.126. Baseline Description – Table 12.1 outlines the 98 receptors and their distances to each proposed turbine T1, T2, and T3.

9.127. Assessment of Potential Effects – Table 12.2 summarises the potential total hours of shadow flicker per year, the potential maximum hours of shadow flicker per day, and the potential number of shadow days per year. The worst case scenarios are: 35.9 potential total hours of shadow flicker per year at H50, 0.76 potential maximum hours of shadow flicker per day at H2, and 103 potential number of shadow days per year at H40. 57 properties in total may potentially be affected.

9.128. Likely expected shadow flicker to be experienced based on meteorological conditions are also outlined i.e. thirty year historical sunshine data from Malin Head. The 'total annual average shadow flicker will be approximately 28% of the predicted worst-case scenario … By applying this reduction factor to the calculated shadow flicker hours for each dwelling house it has been determined that none of the properties will experience greater than 30 hours of shadow flicker per year' (page 401).

9.129. Mitigation Measures and Residual Effects – A blade shadow control system will be installed on turbines which will calculate in real time whether shadow flicker has potential to affect a nearby property. In terms of cumulative effects, Loughderryduff wind farm is noted. The two wind farms could cause combined shadow flicker to Hs 67-77. Previous shadow flicker analysis showed the potential of Loughderryduff to create shadow flicker to these receptors. However, it is not considered to be an issue because of the blade shadow control system.

Electromagnetic Interference

9.130. EMI is any type of interference that can potentially interfere with the effective performance of electronic devices.

9.131. Assessment Methodology and Significance Criteria – The views of telecommunications providers were sought.

9.132. Assessment of Potential Effects – In the operational phase 'The likely sources of electromagnetic emissions from the Proposed Development will have low strength and will be located at such a distance from potential receptors there the likely effect will be imperceptible' [sic] (page 407). In the unlikely event it affects Saorview television services there are potential mitigation options. The proposed development 'should have no negative effect on the existing electromagnetic conditions in the locality' (page 408), relating to telecommunications.

9.133. Cumulative Effects – The potential for cumulative impacts is predicted to be not significant.

9.134. Assessment and Conclusion – I have considered the submissions on file, this chapter of the EIAR, and all supplementary documentation. It appears that a turbine with a rotor diameter of 126 metres, the maximum proposed in the application, was used to calculate shadow flicker. Though this is not explicitly stated, section 12.4.2 states 'the calculation, is based on shadow flicker effects for all properties which are within 10 rotor diameters (1,260m)' [sic]. Therefore I am satisfied the applicant has considered the maximum impact that could arise from the range of proposed rotor diameters sought in the application.

9.135. I am satisfied that the potential for shadow flicker and EMI impacts can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. The

mitigation measure proposed to address any potential shadow flicker in excess of 30 hours per year or 30 minutes per day is a standard condition which should be attached should permission be granted. The blade shadow control system should be calibrated so that it takes into account the shadow flicker resulting from the existing Loughderryduff wind farm. In this regard I note page 391 ('This chapter describes and assesses the potential shadow flicker and electromagnetic interference (EMI) effects of the *proposed extension* to the existing development) [emphasis added]. While cumulative shadow flicker data for the combined existing Loughderryduff and proposed wind farms would have been informative, having regard to the foregoing recommended condition, I do not consider that its omission is fatal to the planning application.

9.136. Therefore, I am satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative shadow flicker or EMI impacts.

Chapter 13 – Material Assets

9.137. Baseline Description – The assets cited are forestry (none), fisheries (streams are considered to be of low fisheries potential and relevant mitigation is contained elsewhere), agriculture (the site is partially used for rough grazing for sheep and this can continue post-construction), quarries/mines (none; the main extraction activity is peat cutting which will continue), grid connection and grid network (the proposed wind farm will connect to the grid via the Loughderryduff substation), and air navigation (the EIA scoping phase responses from IAA and Donegal Airport are set out).

9.138. Assessment of Potential Effects – As per assets cited in the previous paragraph the potential effects are forestry (imperceptible), agriculture (a temporary slight negative impact), quarries/mines (there may be potential increased business for quarry operators and fuel suppliers and an imperceptible impact to turbary), grid connection (imperceptible), and air navigation. In relation to air navigation the development 'is not predicted to have any effect on operations' at either Donegal or Sligo airports, with an imperceptible to slight impact.

9.139. Mitigation Measures – An Obstruction Survey will be undertaken pre-construction for IAA. Warning beacons will be fixed to turbines.

9.140. Assessment and Conclusion - I have considered the submissions on file, this chapter of the EIAR, and all supplementary documentation. I agree with the statement of significance in the EIAR chapter that potential effects are considered to be not significant.

9.141. Submissions were received by Donegal Co. Co. from the Department of Defence and from IAA (two submissions from IAA). There was no objection made in principle to the proposed development. A standard aviation-related condition can be attached to any grant of permission.

9.142. I am satisfied that the potential for impacts on material assets can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on material assets.

Chapter 14 – Cultural Heritage

9.143. Assessment Methodology and Significance Criteria – The study area is a 5km radius from the site. A desk study was carried out and a field walkover survey was carried out on 19th August 2020.

9.144. Baseline Description – There are 52 no. recorded archaeological sites within the study area though none within 1km of the site. 47 no. findspots are located within the study area though none are close to the site and a number were found at recorded archaeological sites. There are three protected structures within the study area (the closest being 2.79km away) and there is one example of a national inventory of architectural heritage (NIAH) listed structure. The field walkover did not reveal any surface traces of potential unrecorded archaeological sites or features. Archaeological monitoring of the works carried out under the previous permission revealed nothing of archaeological significance. The proposed site can be considered to be of low archaeological potential.

9.145. Assessment of Potential Effects – The construction phase will not result in any predicted direct or indirect effects on the known cultural heritage resource. Following successful implementation of mitigation measures there are no likely direct impacts during the operational phase. In terms of indirect impact existing turbines are partially visible from a number of archaeological sites so proposed turbines may also be visible.

Given the distance between archaeological sites and the proposed development 'magnitude of impact is considered low on the inspected monuments of high value/sensitivity resulting in a long term, negative slight/moderate significance of effect'.

9.146. Mitigation Measures and Residual Effects – Though the archaeological potential of the site is low a programme of archaeological monitoring shall be undertaken during the construction phase. Should remains be encountered they shall be either preserved in situ (resulting in a potential not significant/imperceptible residual impact effect) or by record (resulting in a potential slight/moderate residual impact significant). The residual operational phase indirect visual impact is considered to be a slight/moderate significance of effect.

9.147. Cumulative Impacts – No likely or significant cumulative impact on cultural heritage will arise. The potential for cumulative visual impact on archaeological sites is deemed to be of slight/moderate significance during operation.

9.148. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions on file, and all supplementary information.

9.149. I consider that the chapter accurately outlines the impact on cultural heritage as a result of the proposed development. I am satisfied that there are no archaeological features, protected structures, or NIAH structures in close proximity to the site. The chapter states on page 437, in terms of indirect operational impacts, that the proposed turbines may be visible from certain archaeological sites. The existing turbines are partially visible, and given the increased scale of the proposed turbines, I consider that it is highly likely that the proposed turbines would also be visible. Notwithstanding, I concur with the applicant that the visual impact would not be significant. Incorrect plate numbers are given on page 437 i.e. the plates are 13.7 and 13.8 etc. and not 14.7 and 14.8 etc. I also note that the submission from the Department of Housing, Local Government and Heritage in relation to archaeology recommends a monitoring condition be attached to any grant of permission.

9.150. I am satisfied that the potential for impacts on cultural heritage can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on cultural heritage.

Chapter 15 – Traffic and Transport

9.151. Assessment Methodology and Significance Criteria – The study area is the haul route for turbine components and the civil construction haul route.

9.152. Baseline Description – The turbine haul route is likely to be via Killybegs port and the N56. Civil haul routes will use the L2563 from the N56 and not from Ardara. The L2563 has a number of acute bends and steep gradients between the N56 and the site. It has been subject to localised widening at a number of locations during construction of the existing wind farm. All three proposed turbines and the substation will be accessed by separate upgraded splayed junctions and access tracks except T3 which will be served by a new access point and access track. Temporary modifications will be required to the layout of the L2563/N56 junction to accommodate the swept path of abnormal loads. The average annual daily traffic (AADT) volume in 2019 on the TII's traffic counter at the N56 south of Dungloe was 3,238 vehicles, with a road capacity on the N56 at Maas of 5,000 AADT.

9.153. Proposed Works – Construction is expected to take approximately nine months with most HGV deliveries within the first three to four months. Modifications to existing junctions and carriageways will be required to facilitate turbine deliveries e.g. temporary widening/modifications of junctions/roundabouts to allow wheel overrun, temporary removal of signs and street furniture for the swept path, widening of acute carriageway bends, and temporary parking restrictions. These are set out on page 455.

9.154. Assessment of Potential Effects – During civil construction approx. 1,153 loads will be delivered to site. A high-level sequence of construction over the construction period is outlined on page 457. Works to the haul route will be confined to a very short period of time. There will be a peak workforce of 30 during construction. The overall potential effect on local roads is slight and negative and short-term in duration. During operation the wind farm will normally be unmanned with 1-2 visits per week. There will be an imperceptible impact on the road network.

9.155. Mitigation Measures – Construction phase mitigation includes a Traffic Management Plan, wheel cleaning, covered loads, and construction warning signage. There is no need for operational stage mitigation.

9.156. Cumulative Effects – The closest permitted but unbuilt wind farm is approx. 11.2km to the south and cumulative traffic impacts only occur during construction. Any likely construction phase cumulative effect is considered to be imperceptible. Works to the haul route could reduce the amount of works required to facilitate future turbine deliveries should these be permanent, if preferred by the planning authority.

9.157. Monitoring – The L2563 to the N56 'will be monitored during construction so that any damage caused by construction traffic associated with the Development can be identified and maintenance works carried out as soon as practicable … Any repairs required to the local road network arising from damage caused by traffic associated with the Development will be carried out once construction activities have ceased …'

9.158. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions on file, and all supplementary information. Given the nature of the proposed development it is inevitable that there will be an impact on the road network during the construction phase, though I note the proximity of the site to the national road is only approx. 1.9km (between the L2563/N56 junction and the furthest point of the site (proposed T3 access point)). Many wind farms have been constructed in less accessible locations in terms of the road network and there is an existing adjacent wind farm in situ. Only three turbines are proposed, and some access points and tracks already exist.

9.159. The chapter is silent on the rationale for the proposed access point and track for T3. As proposed, the development would have separate access points and tracks for each turbine and the substation, notwithstanding that there are three existing entrances, including the proposed substation access being shared with the existing wind farm and substation. The proposed T3 access track would traverse ground levels ranging from approx. 60 metres at the access point to 73 metres at T3. No longitudinal section has been provided. It would be approx. 300 metres in length with approx. 150 metres of this between the L2563 and the end of the existing track that is currently in place serving T3. No reason has been provided to justify the construction of an additional access point onto the public road, and a new track across a European site, when T3 can be accessed via T2. The absence of a robust rationale for this new access point and track is a significant deficiency in the application in my opinion.

9.160. Notwithstanding, the construction of the new track would negate the necessity to upgrade/widen the existing track between T2 and T3 (approx. 420 metres) which is to be used for the underground cable. It is also likely that the existing track would have to be further extended to accommodate turning points, crane pads etc. Therefore the impact of the new access point and track may not be that significant when compared with that of upgrading, widening, and extending the existing track. The submitted layout plans show the existing tracks and hardstand areas, the existing tracks to be upgraded, and the proposed new tracks. Related issues relevant to AA are addressed in section 10 of this inspector's report.

9.161. The TII submission received by the planning authority states that the proposed development is at variance with official policy in relation to control of development on or affecting national roads as 'by itself, or by the precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network …' for a number of stated reasons. I consider that the position of the TII is not reasonable considering the context of the proposed development which is for three turbines. TII states insufficient data has been submitted to demonstrate the development would not have a 'detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity …' The applicant states that the AADT on the N56 is significantly below capacity south of Dungloe, visibility in accordance with requirements is available in both directions at the N56/L2563 junction, and the N56 at this location is a high-quality single carriageway. I concur that there is no particular concern with the national road network at this location.

9.162. As referenced by the TII, the EIAR does state that details of works to the N56/L2563 junction are set out in section 3.3. Though section 3.3 of the EIAR addresses issues not relevant to road modifications it appears that it refers to section 3.3 (Upgrade Works to Existing Roads and Junctions) of the Traffic Management Plan attached as appendix 15 to the EIAR. This section merely states 'Alterations to N56 / L2563 junction for the swept path of abnormal load vehicles' would be required with no additional detail provided. Notwithstanding, I am satisfied that the applicant has adequately considered all actions and requirements necessary along the turbine component haul route, from either Killybegs or Derry ports as per section 3.3. These include parking restrictions, vegetation trimming, oversailing of identified third party

lands, temporary alterations of bridge parapets, and removal of identified signage, lights and street furniture etc. These relatively minor works relate to an area outside of the red line site boundary and therefore would not form part of this permission, should a grant be issued. Permission may be required for road-related works outside the red-line site boundary though this inspector's report makes no comment as to whether that would be the case.

9.163. I consider that the specific detail of the required haul route and any permits, consultations, operational requirements, licences etc. is a matter for the developer and is outside the specific scope of this application.

9.164. Having regard to the foregoing, while I note the position of the TII, I do not consider there is any reasonable objection to the principle of the proposed development in terms of its impact on the national road network.

9.165. There appears to be a number of errors in this EIAR chapter. It is assumed that the 150 metres rotor diameter cited in section 15.3.1 and the 80 metres long blade referenced in section 15.3.5 are typographical errors as the longest blade length proposed is 63 metres. The total number of deliveries in table 15.8 adds up to 1,203, not 1,153. It is stated on page 457 that 335 HGVs would use the N56 on a daily basis in 2024 whereas table 15.7 gives a figure of 135. This implies an increase of approx. 58% of HGVs on the N56 on the three concrete delivery days, not 21% as stated. In addition, the 8% increase in daily HGV average on the N56 during the construction period is likely to be similarly understated given a figure of 335 HGVs is used here too.

9.166. I note the comments of the applicant in relation to maintenance and repair of the local road arising from damage caused. I consider this should be included as a condition of any grant of permission with any maintenance and repair works carried out at the developer's expense to the planning authority's satisfaction.

9.167. In conclusion, I am generally satisfied with the proposed development in so far as it relates to traffic and transport. I am satisfied that the potential for impacts of traffic and transport can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on traffic and transport.

Chapter 16 – Interactions of the Foregoing

9.168. Introduction – Preceding chapters identify the potential significant environmental effects that may occur. For development with the potential for significant environmental effects there is also the potential for interaction. The result may exacerbate the magnitude of the effects, ameliorate them, or have a neutral effect. A matrix identifies key interactions and interrelationships.

9.169. Impact Interactions – Table 16.2 sets out the interactions and describes and discusses them. It can be summarised as follows:

- Population and human health and hydrology – It is very unlikely that there will be an impact on humans or human health due to changes in hydrology.
- Population and human health and noise and vibration – No potentially significant residual effects have been identified.
- Population and human health and landscape and visual – The development will not give rise to any significant effects.
- Population and human health and air and climate – The cumulative effect with other renewable generation is a significant major positive effect.
- Population and human health and shadow flicker and EMI – The potential effect from shadow flicker is not significant. No effects are predicted on telecommunications or radio reception.
- Population and human health and material assets – No significant impacts are predicted in terms of air navigation or telecommunications or radio reception.
- Population and human health and archaeology and cultural heritage – No direct impact will occur and the site is of low archaeological potential.
- Population and human health and soils and geology – The risk of landslides to human health is insignificant.
- Biodiversity and soils and geology – No potentially significant residual effects are identified.
- Biodiversity and hydrology and hydrogeology – Suitable mitigation is proposed to minimise potential impacts.

- Biodiversity and noise – This was considered in the ornithology assessment.
- Soils and geology, hydrology and hydrogeology, and landscape and visual – Application of mitigation measures will reduce the risk of stability issues and impacts on hydrology and hydrogeology arising at a local scale.
- Soils and geology and landscape and visual – There is an unavoidable residual impact with the replacement of natural material by concrete etc. No new impacts are anticipated during operation.
- Soils and geology, landscape and visual impact, and archaeology and cultural heritage – Monitoring will be carried out during construction. The operational phase is likely to have no likely or significant direct effects on cultural heritage.
- Hydrology and material assets – Fisheries may be impacted by contamination of watercourses. Mitigation is outlined.
- Noise and traffic and transportation – Best practice measures will be required.
- Landscape and visual and material assets – Addressed in chapter 13.
- Traffic and transport and material assets (fisheries) – No potentially significant residual effects.

9.170. Assessment and Conclusion – I note that there are inconsistencies between table 16.1 and 16.2. For example, no interactions or interrelationships are identified between population and human health and soils and geology, hydrology and material assets, noise and traffic and transportation, landscape and visual and material assets, and traffic and transport and material assets (fisheries) on table 16.1 but interactions are described in table 16.2, and an interaction or interrelationship between population and human health and traffic and transport is identified in table 16.1 but not described in table 16.2. In terms of the latter I consider that there would be no significant impact between population and transport given the short-term construction period.

9.171. Notwithstanding the foregoing, I accept the general provisions of this EIAR chapter in relation to the interactions of the various environmental factors. These factors do not stand alone, but I consider that there is no significant negative impact likely to occur from their interactions, should appropriate mitigation measures be incorporated into the construction, operation, and decommissioning stages.

Reasoned Conclusion

9.172. I consider that the EIAR and supplementary information is sufficient to identify, describe, and assess the likely significant effects of the project on the environment. Having regard to the examination of environmental information contained above, as set out in the EIAR and supplementary information provided by the applicant, and the submissions from the prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development are, and will be mitigated as follows where relevant:

- Biodiversity – There would be some habitat loss due to the construction of new access tracks and the widening of existing tracks, hardstanding areas, and turbine foundations, including areas of active blanket bog and wet heath habitats. Notwithstanding, measures have been designed to mitigate potential negative and harmful effects as a result of the proposed development on the general key ecological receptors identified as part of the impact assessment. Measures for the construction and operation phases are set out relating to e.g. water quality and aquatic fauna, non-volant mammals, birds, bats, and habitat management.
- Landscape and Visual Amenity – The site is in a relatively exposed location though the proposed turbines would likely be read as an extension to the existing nine turbine wind farm, notwithstanding the greater heights of the proposed turbines. While the proposed development would result in additional landscape and visual change, I do not consider it to be so significant, where turbines are already operational, that a refusal of permission would be warranted on this basis.
- Air and Climate – There would be a minor positive impact on the environment as a result of the increase in renewable energy resources.
- Population and Human Health – Development of the type proposed is common in Ireland and is strongly supported by the planning framework at all levels. The potential for the proposed development to adversely impact the health of the population is not likely, whether through health impacts or risk of accident. Limits on, for example, noise and shadow flicker, can be conditioned to protect the amenity of the local population.

9.173. In conclusion, I consider that the issue of active blanket bog and wet heath habitat loss from West of Ardara / Maas Road SAC is a significant concern that needs to be further assessed, as set out in section 10 of this inspector's report.

10.0 Appropriate Assessment (AA)

10.1. Introduction

10.1.1. A revised Natura Impact Statement (NIS) was submitted as appendix E to the grounds of appeal. It is prepared by Doherty Environmental Consultants Ltd. and is dated November 2022. It is this document that is considered in this section. Some additions to the original document include an expanded chapter 3 (Screening Exercise for Appropriate Assessment), an expanded chapter 4 (Baseline Descriptions) where there are seven European sites considered rather than only two (West of Ardara / Maas Road SAC and West Donegal Coast SPA) in the original NIS, and an expanded chapter 5 (Examination of Impacts).

10.1.2. There is an overlap between AA and biodiversity as set out in the assessment and conclusion of chapter 6 of the EIA in this inspector's report. Issues specific to AA are addressed in this section.

10.2. Appropriate Assessment (AA) Screening

Compliance with Article 6(3) of the Habitats Directive

10.2.1. The requirements of article 6(3), as related to screening the need for AA of a project under part XAB, section 177U of the Planning and Development Act, 2000 (as amended) are considered fully in this section.

Background on the Application

10.2.2. The applicant has not submitted a stand-alone AA screening report, rather the screening stage is contained as chapter 3 in the NIS. Chapter 1 (Introduction) of the NIS states 'a screening exercise for Appropriate Assessment (AA) has been completed to assess whether it could or could not be ruled out, on the basis of objective information, that the project, either individually or in combination with other

plans or projects, was likely to have a significant effect on any European Sites. The screening exercise … concluded, in view of best scientific knowledge and the conservation objectives of the European Sites occurring within the zone of influence of the project, that, in the absence of appropriate mitigation, it could not be ruled out at the screening stage that the project would not result in significant negative effects to two European sites, namely the West Of Ardara/Maas Road SAC and the West Donegal Coast SPA. The screening exercise was informed by a highly precautionary approach and adopted a worst-case scenario ... On the basis of that conclusion, it has been determined that AA is required in order to assess the implications of the project for those two European Sites'. Though only two European sites were identified, section 3.1.3 concludes that there are six European sites that require further examination as part of an NIS. It appears the applicant did not update the introduction in the revised NIS.

10.2.3. Notwithstanding, having reviewed the documents and submissions, I am satisfied that the information allows for a complete screening examination and identification of any potential significant effects of the development alone, or in combination with other plans and projects, on European sites.

Screening for Appropriate Assessment – Test of Likely Significant Effects

10.2.4. The project is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

10.2.5. The proposed development is examined in relation to any possible interaction with European sites designated Special Areas of Conservation (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European site(s).

Brief Description of the Development

10.2.6. The proposed development is described in section 2 of this inspector's report.

10.2.7. Habitats occurring at the project site and habitats within the footprint of the project occurring within West of Ardara / Maas Road SAC are outlined in sections 4.7 and 4.8 of the NIS. It is stated that the dominant habitats within the footprint are existing buildings and artificial surfaces, 'cutover blanket bog in areas previously excavated for

the consented Maas Wind farm hardstands and overlying the proposed hardstands, and cutover/degraded blanket bog arising from turbary activity' (page 55). Habitat mapping is shown on figure 4.1.

European Sites

10.2.8. The development site is located in and immediately adjacent to the European site West of Ardara / Maas Road SAC (site code 000197).

10.2.9. European sites within the zone of influence (ZoI) of the proposed development must be evaluated on a case by case basis. Table 3.1 outlines the European sites in the wider surrounding area of the site. Thirteen SACs and seven SPAs are illustrated on figures 3.1 and 3.2 of the NIS in the context of the site location. Their locations relative to the closest part of the proposed site boundary are:

- West of Ardara / Maas Road SAC (site code 000197) – partially within and immediately adjacent,
- Sheskinmore Lough SPA (site code 004090) – approx. 4.3km to the south west,
- Inishkeel SPA (site code (004116) – approx. 5km to the north west,
- Lough Nillan Bog (Carrickatlieve) SAC (site code 000165) – approx. 6.3km to the south east,
- Lough Nillan Bog SPA (site code 004110) – approx. 6.3km to the south east,
- Gannivegil Bog SAC (site code 000142) – approx. 7km to the north east,
- West Donegal Coast SPA (site code 004150) – approx. 7km to the west,
- Slieve Tooey / Tormore Island / Loughros Beg Bay SAC (site code 00190) – approx. 7.3km to the south west,
- Roaninish SPA (site code 004121) – approx. 10.5km to the north west,
- Termon Strand SAC (site code 001195) - approx. 11.9km to the north west,
- Rutland Island and Sound SAC (site code 002283) – approx. 12km to the north),
- Coolvoy Bog SAC (site code 001107) – approx. 12.4km to the north east,

- River Finn SAC (site code – 002301) – approx.12.8km to the east,
- Cloghernagore Bog and Glenveagh National Park SAC (site code 002047) – approx. 12.8km to the north east,
- Derryveagh and Glendowan Mountains SPA (site code 004039) – approx. 13km to the north east,
- Illancrone and Inishkeeragh SPA (site code 004132) – approx. 13.9km to the north west,
- Meenaguse Scragh SAC (site code 001880) – approx. 14.3km to the south east,
- Meenagure / Ardbane Bog SAC (site code 00172) – approx. 14.4km to the south east,
- Gweedore Bay and Islands SAC (site code 001141) – approx. 18.9km to the north, and,
- Aran Island (Donegal) Cliffs SAC (site code 000111) – approx. 19.9km to the north west.

10.2.10. As the development is within West of Ardara / Maas Road SAC this was automatically screened in for stage 2 assessment. A source-pathway-receptor model was used to identify whether other European sites could be at risk. Pathways considered included hydrological and mobile species. European sites that interact with hydrological pathways are West of Ardara / Maas Road SAC and Sheskinmore Lough SPA. SCIs of SPAs were considered for a mobile species pathway. Based on separation distances between the site and the respective SPA and foraging ranges of each SCI the applicant has identified SCI species in six SPAs that could be affected by the proposed development: Sheskinmore Lough SPA, Inishkeel SPA, Lough Nillan Bog SPA, West Donegal Coast SPA, Roaninish SPA, and Illancrone and Inishkeeragh SPA. The SCI species which could occur within the ZoI of the proposed development are herring gulls, barnacle geese, and Greenland white-fronted geese. Cormorant and merlin are also included as they were recorded in bird surveys, even though the site is located outside the foraging zone of the SPAs designated for these species. All other SCIs ‘are not considered to lie within the zone of influence of the project’ (page 45 of the NIS).

10.2.11. As noted in the previous paragraph, page 45 of the NIS implies that cormorant and merlin should also be included as relevant species within the ZoI. The seven SPAs in the wider surrounding area are set out in table 3.2 of the NIS. Cormorant is cited as being within the ZoI of West Donegal Coast SPA in table 3.2. However merlin, an SCI of both Lough Nillan Bog SPA and Derryveagh and Glendowan Mountains SPA, is not included in the ZoI column of the table. Therefore, having regard to the provisions of page 45, I consider that Derryveagh and Glendowan Mountains SPA should also be brought forward to stage 2 (Lough Nillan Bog SPA having already been brought forward because of the SCI Greenland white-fronted goose).

10.2.12. For mobile species associated with SACs, QIs otter and marsh fritillary are ruled out. Baseline surveys have found that otters do not rely on the site and there are no suitable habitats to support them. There is no suitable habitat for marsh fritillary and the food plant of its larvae is 'largely absent'. Aquatic mobile species were not included due to the absence of suitable fisheries habitat though where hydrological pathways connect to suitable downstream habitats the species will be included within the ZoI and will be brought forward. No potential pathways were identified for noise and vibration emissions, air emissions, and light emissions.

10.2.13. I agree with the applicant in terms of the seven European sites that require stage 2 AA but, having regard to page 45 of the NIS and the results of the bird surveys, I consider that Derryveagh and Glendowan Mountains SPA should also be included.

Table 1: Summary Table of European Sites Within the Zone of Influence of the Proposed Development to be Brought Forward to Stage 2 AA

European site	**List of QIs / SCIs**	**Distance from proposed development**	**Connections (source – pathway – receptor link)**
West of Ardara / Maas Road SAC	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140]	Partially within and immediately adjacent	Proximity and hydrological

	Large shallow inlets and bays [1160] Annual vegetation of drift lines [1210] Atlantic salt meadows [1330] Mediterranean salt meadows [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 [6510] Blanket bogs (* if active bog) [7130] Depressions on peat substrates of the Rhynchosporion [7150] Alkaline fens [7230] Geyer's whorl snail [1013] Freshwater pearl mussel [1029] Marsh fritillary [1065] Salmon [1106] Otter [1355] Harbour seal [1365] Petalwort [1395]		

	Slender naiad [1833]		
Sheskinmore Lough SPA	Greenland white-fronted goose [A395]	Approx. 4.3km to south west	Hydrological and mobile species
Inishkeel SPA	Barnacle goose [A045]	Approx. 5km to north west	Mobile species
Lough Nillan Bog SPA	Merlin [A098] Golden plover [A140] Greenland white-fronted goose [A395] Dunlin [A466]	Approx. 6.3km to south east	Mobile species
West Donegal Coast SPA	Fulmar [A009] Cormorant [A017] Shag [A018] Peregrine [A103] Herring gull [A184] Kittiwake [A188] Razorbill [A200] Chough [A346]	Approx. 7km to west	Mobile species
Roaninish SPA	Barnacle goose [A045] Herring Gull [A184]	Approx. 10.5km to north west	Mobile species
Derryveagh and Glendowan Mountains SPA	Red-throated diver [A001] Merlin [A098] Peregrine [A103] Golden plover [A140] Dunlin [A466]	Approx. 13km to north east	Mobile species

Illancrone and Inishkeeragh SPA	Barnacle goose [A045] Common tern [A193] Arctic tern [A194] Little tern [A195]	Approx. 13.9km to north west	Mobile species

Mitigation Measures

10.2.14. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.

Screening Determination

Significant effects cannot be excluded, and Appropriate Assessment required

10.2.15. The proposed development was considered in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended). Having carried out screening for AA of the project, I conclude that the project individually (or in combination with other plans or projects) could have a significant effect on European sites West of Ardara / Maas Road SAC (site code 000197), Sheskinmore Lough SPA (site code 004090), Inishkeel SPA (site code (004116), Lough Nillan Bog SPA (site code 004110), West Donegal Coast SPA (site code 004150), Roaninish SPA (site code 004121), Derryveagh and Glendowan Mountains SPA (site code 004039), and Illancrone and Inishkeeragh SPA (site code 004132) in view of the sites' conservation objectives, and AA (and submission of a NIS) is therefore required.

10.3. Appropriate Assessment (AA)

10.3.1. The requirements of article 6(3) as related to AA of a project under Part XAB, section 177V of the Planning & Development Act, 2000 (as amended) are considered fully in this section.

The Natura Impact Statement (NIS)

10.3.2. The applicant has submitted a revised NIS as part of the grounds of appeal, prepared by Doherty Environmental Consultants Ltd. and dated November 2022. According to its introduction, the report 'has been prepared in order to assist the competent authority … in carrying out its Appropriate Assessment. (It) provides an examination,

analysis and evaluation of the likely impacts from the Project, both individually and in combination with other plans and projects, in view of best scientific knowledge and the conservation objectives of the European Sites concerned. It also prescribes appropriate mitigation to ensure that the Project will not adversely affect the integrity of those sites identified as being at risk of likely significant effects. Finally, it provides complete, precise and definitive findings, which are capable of removing all reasonable scientific doubt as to the absence of adverse effects on the integrity of the European sites concerned'.

10.3.3. The submitted NIS is a lengthy document. It includes, inter alia, a project description, a screening exercise, descriptions of European sites including habitats and SCI species, an examination of impacts, mitigation measures, and a conclusion.

10.3.4. Further to examining the seven European sites brought forward for AA (as set out previously Derryveagh and Glendowan Mountains SPA is not included in the applicant's NIS), the conclusion is that 'it can be concluded by An Bord Pleanála that the project will not, alone or in-combination with other plans or projects, result in 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 and there is no reasonable scientific doubt as to that conclusion'.

10.3.5. Having reviewed the documents and submissions etc., including the applicant's EIAR, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the relevant European sites alone, or in combination with other plans and projects.

Submissions and Observations

10.3.6. The Department of Housing, Local Government and Heritage made a heritage/nature based submission on the original planning application to Donegal Co. Co. The Department's concerns are summarised in paragraphs 3.3.1 – 3.3.11 of this inspector's report. A number of concerns were outlined and it seems to have informed the planning authority's third reason for refusal. Issues related to AA were also referenced in third party observations, but in a largely general way rather than raising specific issues. In considering the Department's submission I note that it was made on foot of the original application to Donegal Co. Co. and not the revised NIS and EIAR biodiversity chapter that have been submitted with the grounds of appeal. The Board

did not seek an observation from the Department on foot of the grounds of appeal. The issues raised by the Department can be addressed as follows, under the same headings used in the submission.

10.3.7. *Screening for AA –* The Department had raised concerns about the exclusion of Lough Nillan Bog SPA and Sheskinmore Lough SPA from the NIS. The revised NIS considers seven European sites rather than the two initially considered, including the two cited by the Department. The adequacy of the bird survey data has been considered in detail in paragraphs 9.58 – 9.63 of this inspector's report.

10.3.8. *Hydrological links –* Mitigation is set out below.

10.3.9. *Managing excavated materials –* As above.

10.3.10. *Habitat loss –* This issue is addressed in detail in paragraphs 10.3.37 – 10.3.46.

Appropriate Assessment of Implications of the Proposed Development

10.3.11. The following is a summary of the objective scientific assessment of the implications of the project on the QI and SCI features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

European Sites

10.3.12. The conservation objectives of the eight European sites and an assessment of the QI or SCI features that can be excluded from further consideration are as follows:

West of Ardara / Maas Road SAC

10.3.13. Conservation objectives are set out in the 'Conservation Objectives Series West of Ardara / Maas Road SAC 000197' document published by the National Parks & Wildlife Service (NPWS). There are 34 no. QIs identified on the NPWS website but only 31 no. for which conservation objectives have been defined. There is no statutory instrument for this SAC on the NPWS website. The three omitted are annual vegetation of drift lines [1210], embryonic shifting dunes [2110], and oligotrophic to mesotrophic standing waters [3130]. (Map 8 of the document cites [1210] and [2110] as 'Non-Qualifying Interests). Of the 31 no. QIs for which a conservation objective has been defined, 23 no. are to maintain the favourable conservation condition and eight are to restore the favourable conservation condition.

10.3.14. Maps showing the distribution of QI habitats and species are part of the conservation objectives series document. 'A review of these maps does not indicate the presence of any qualifying habitats or records for the presence of qualifying species within or adjacent to the proposed development site' (page 49 of the NIS). The NIS notes that the closest mapped QI habitat is Lough Namanlagh which is identified on map 9 as potential 'Oligotrophic waters containing very few minerals of sandy plains [3110]' and which is hydrologically connected to the proposed development. It is not mapped for otters. I also note that other hydrologically connected waterbodies i.e. Loughs Doo, Derryduff, and Aderry, are also identified as [3110].

10.3.15. The NIS notes that the site is located within a peatland environment but distribution maps for peatland habitat have not been produced in the document i.e. blanket bog, heaths, or rhynschosporion vegetation. There are no grassland habitat maps. The applicant states no grassland habitats such as molinia meadows or orchid-rich grasslands occur at or in the vicinity of the site, or scrub and fen habitat. The mapping shows areas of freshwater pearl mussel and petalwort away from the development site.

10.3.16. In section 4.1.1 of the NIS the applicant states that the QIs to be examined further are blanket bog, wet heath, dry heath, and rhynchosporion vegetation (due to the peatland environment (dry heath and rhynchosporion vegetation were later disregarded)), oligotrophic lakes (due to the hydrological pathway), and otter and Atlantic salmon (because of the suitable habitat for same in Lough Namanlagh). I agree with the inclusion of these QIs.

10.3.17. The NIS states on page 49 that 'All coastal qualifying habitats and species are separated from the proposed development site by surrounding terrestrial land and do not occur within or adjacent to the development'. A number of habitats and species which there would be a hydrological connection to (some would be quite loosely connected) are mapped in the conservation objectives series document i.e. estuaries, mudflats and sandflats not covered by seawater at low tide, Atlantic and Mediterranean salt meadows, fixed coastal dunes, machairs, dunes with salix repens ssp. argentea, shifting dunes, Geyer's whorl snail (the reference in the map 10 legend appears to be a typographical error as this is the only reference to narrow-mouthed whorl snail in the document and the map title refers to Geyer's whorl snail), harbour seal, and marsh fritillary (mapped in two 1km squares including and immediately west

of Sheskinmore Lough). I note that the conservation objectives series document does not cite water quality in the attributes, measures, or targets for any of these QIs and therefore I agree these can be excluded from further consideration.

10.3.18. However, slender naiad is mapped as being in Sheskinmore Lough. One of its attributes is 'water quality' with the target 'Maintain appropriate water quality to support the populations of the species'. Acidification status and water colour are also cited as attributes. Therefore, I consider that slender naiad should be added to the QIs considered in the AA.

Sheskinmore Lough SPA

10.3.19. First-order site-specific conservation objectives are set out in the 'Conservation objectives for Sheskinmore Lough SPA [004090]' document published by the Department of Housing, Local Government and Heritage. (First-order site-specific conservation objectives are replaced by detailed site-specific objective documents once these are prepared).

10.3.20. Greenland white-fronted goose is the only SCI for this SPA. Section 4.3 of the NIS states NPWS records for the species between 1982/83 to 2011/12 are shown on figure 4.1 but no such records are provided. Further examination is required having regard to the foraging range of the species as well as the water quality of the lough which the population relies on for habitat.

Inishkeel SPA

10.3.21. First-order site-specific conservation objectives are set out in the 'Conservation objectives for Inishkeel SPA [004116]' document published by the Department of Housing, Local Government and Heritage.

10.3.22. Barnacle goose is the only SCI for this SPA. Further examination is required having regard to its foraging range as per the AA screening. However, section 4.5.1 of the NIS (SCIs to be examined) refers to Greenland white-fronted goose, and not barnacle goose, and also refers to the water quality of Sheskinmore Lough upon which the geese rely for habitat. It appears this reference is an error and Sheskinmore Lough was not referred to in the NPWS's site synopsis for this SPA.

Lough Nillan Bog SPA

10.3.23. First-order site-specific conservation objectives are set out in the 'Conservation objectives for Lough Nillan Bog SPA [004110]' document published by the Department of Housing, Local Government and Heritage.

10.3.24. Merlin, golden plover, Greenland white-fronted goose, and dunlin are the SCIs. The development site is located within potential foraging distance of the merlin and Greenland white-fronted goose populations and merlin was identified during bird surveys. The development site is outside the foraging range for golden plover and dunlin. Merlin and Greenland white-fronted goose require further examination.

West Donegal Coast SPA

10.3.25. First-order site-specific conservation objectives are set out in the 'Conservation objectives for West Donegal Coast SPA [004150]' document published by the Department of Housing, Local Government and Heritage.

10.3.26. There are eight SCI species associated with this SPA. Herring gull and cormorant are the two that require further examination as they were noted in bird surveys on site. I note that peregrine is an SCI. In relation to this species, table 6.21 of the EIAR biodiversity chapter states, 'This species was not observed interacting with the wind farm site during bird surveys. One registration of this species was recorded during surveys to the north of the proposed development site within the 500m buffer zone. Given the very low usage of the proposed development site and surrounding area as well as the absence of suitable breeding habitat for this species it is not considered to be associated with the proposed development site and is not included as a sensitive avian receptor'.

Roaninish SPA

10.3.27. First-order site-specific conservation objectives are set out in the 'Conservation objectives for Roaninish SPA [004121]' document published by the Department of Housing, Local Government and Heritage.

10.3.28. Barnacle goose and herring gull are the two SCI species and both require further examination for reasons of foraging range and presence on site as set out previously.

Derryveagh and Glendowan Mountains SPA

10.3.29. First-order site-specific conservation objectives are set out in the 'Conservation objectives for Derryveagh and Glendowan Mountains SPA [004039]' document published by the Department of Housing, Local Government and Heritage.

10.3.30. The five SCI species are red-throated diver, merlin, peregrine, golden plover, and dunlin. This SPA was not brought forward to stage 2 by the applicant. However, as merlin is a reason for bringing forward Lough Nillan Bog SPA I consider that it is also a reason for bringing forward this SPA, though I acknowledge this may be an overly cautious approach having regard to the foraging range for merlin set out in table 3.2 of the NIS. Peregrine is excluded from being brought forward, despite being noted on a bird survey, for the reasons outlined in paragraph 10.3.26 of this inspector's report. Red-throated diver was not observed in bird surveys.

Illancrone and Inishkeeragh SPA

10.3.31. First-order site-specific conservation objectives are set out in the 'Conservation objectives for Illancrone and Inishkeeragh SPA [004132]' document published by the Department of Housing, Local Government and Heritage.

10.3.32. Barnacle goose and three tern species are the SCIs for this SPA. Terns were not recorded in bird surveys. Further examination is required having regard to the foraging range of the barnacle goose as per the AA screening. However, as also referenced in paragraph 10.3.22 of this inspector's report, section 4.5.1 of the NIS (SCIs to be examined) refers to Greenland white-fronted goose and not barnacle goose and also refers to the water quality of Sheskinmore Lough upon which the geese rely for habitat.

10.3.33. Having regard to the foregoing there are five different SCI species associated with the seven SPAs considered as relevant for this AA. First-order site-specific conservation objectives are in place for all seven. These will be replaced by detailed site-specific objective documents once these are prepared. In the absence of site-specific objectives, the NIS has taken sample attributes and targets for the SCI species from other SPAs.

- Herring gull – Attributes and targets in table 5.4 of the NIS are taken from Saltee Islands SPA (site code 004002). I note that, for the attributes 'barriers to connectivity' and 'disturbance at the breeding site' the targets set out in table

5.4 are actually the ‘measures’ for Saltee Islands SPA. The applicable target is ‘no significant increase’.

It is unclear why an SPA in Co. Wexford was selected when, for example, Lough Foyle SPA (site code 004087) in Co. Donegal has site specific conservation objectives for herring gull. Only two attributes, population trend and distribution, are contained in the Lough Foyle SPA document.

- Cormorant – As per the first paragraph of herring gull, above.

  Site-specific conservation objectives vary between SPAs. For example, Connemara Bog Complex SPA (site code 004181) in Co. Galway has somewhat different attributes and targets to Saltee Islands SPA, whereas Castlemaine Harbour SPA (site code 004029) in Co. Kerry contains only two attributes, population trend and distribution.

- Merlin – Although the UK is no longer part of the Natura 2000 network, the applicant selected Antrim Hills SPA for the attributes and targets in table 5.5 of the NIS. For the attribute of ‘fledgling success’ table 5.5 gives the target of ‘no significant decline’ rather than ‘on average >1 fledgling per pair successfully raised’ as provided in the Antrim Hills SPA document. The applicant states Antrim Hills SPA was selected because it was the closest known SPA with site specific conservation objectives. Notwithstanding, Connemara Bog Complex SPA (site code 004181) has site-specific conservation objectives with attributes of population size, productivity rate, distribution, extent and condition of suitable open habitats for foraging, and disturbance at breeding sites.

- Greenland white-fronted goose – Attributes and targets in table 5.6 of the NIS are taken from Lough Swilly SPA (site code 004075).

- Barnacle goose – It is stated in section 5.5.3 of the NIS that attributes and targets for barnacle goose are taken from Lough Swilly SPA, as per Greenland white-fronted goose. However, barnacle goose is not an SCI of this SPA. Notwithstanding, I note that site-specific conservation objectives for Trawbreaga Bay SPA (site code 004034) in Co. Donegal where barnacle goose is an SCI has similar attributes and targets.

10.3.34. Having regard to the conservation objectives series documents published by NPWS and the Department, and the detail submitted as part of the overall planning application, I agree with the NIS QI and SCI habitats and species that can be excluded from further consideration as part of this AA, though slender naiad should be included.

Adequacy of Bird Surveys and Impact of Development on SAC Habitats

10.3.35. I consider that there are two particular aspects of the proposed development which require to be addressed and which have a significant impact in terms of this AA. These are the adequacy of the bird surveys and the impact of the proposed development on certain QI habitats of West of Ardara / Maas Road SAC.

10.3.36. The adequacy of the bird surveys – The issue of the bird surveys has a substantial overlap with the biodiversity chapter in the EIAR. I have addressed this issue in paragraphs 9.58 – 9.63 of this inspector's report. I have concluded that the bird surveys are acceptable.

10.3.37. The impact of the proposed development on certain QI habitats of the SAC – West of Ardara / Maas Road SAC has an area of 6,733.41 hectares. A substantial section of the proposed development infrastructure is located within this SAC where relevant QI habitats include wet heath and blanket bog. Although the NPWS has produced a Conservation Objectives Series document for this SAC it does not contain any mapped areas of peatland habitat. The Department of Housing, Local Government and Heritage raised a number of concerns in its submission to Donegal Co. Co. A revised NIS was submitted as part of the grounds of appeal, and it is this document I refer to in this inspector's report. The Board did not seek an observation from the Department on foot of the grounds of appeal. The planning authority's response to the grounds of appeal does not refer to AA other than to state at the outset of its response that the content of the appeal has been noted.

10.3.38. The development site and surrounding area has been identified within article 17 mapping as wet heath habitat. A map illustrating this is provided as figure 4.4 of the NIS. The Department was concerned that the NIS did not allow for an accurate assessment as to whether peat based habitats proposed for removal support QI habitats. The Department noted some contradiction in the original NIS in this regard. The revised NIS states that 'With the exception of minor areas of wet heath between the public road and the existing access track turning area adjacent to T3 no example

of … qualifying habitats occur under the footprint of the elements of the project site occurring within the SAC' (page 67). The applicant appears to exclude areas of active blanket bog which are located both within the T2 hardstanding and adjacent to the new access road for T3 as referenced in paragraph 10.3.40.

10.3.39. The Department was concerned that it could not be ascertained how much additional area would be required to upgrade the existing tracks until a detailed, post-consent, site investigation takes place. I note that this remains the case under the revised NIS (section 2.1.4). These details should be included in reports so that a complete assessment of the proposed development can be carried out. Leaving a lacuna in terms of the amount of potential QI habitat that may be removed post-consent leaves scientific doubt as to the true final impact of any proposed development.

10.3.40. The revised NIS confirms that the proposed development would affect QI habitats. Table 4.2 states that 'An example of active blanket bog occurs within the proposed infrastructure footprint to towards [sic] the end of T2 hardstand … The vegetation community occurring at this location along with … physical attributes described … are representative of active blanket bog condition … A second example of blanket bog occurs along the start of the access track between the public road and the T3 hardstand location'. The area of blanket bog is given as 0.05 hectares. 0.14 hectares of degraded blanket bog and 0.14 hectares of cutover blanket bog would also be directly affected. 0.1 hectares of wet heath is affected. 'Examples of wet heath habitat occur between the public road and the existing access track at the T3 location … The wet heath habitat at this location has not been subject to past land use activities in the form of turbary or drainage'. These habitats are mapped on figures 4.3a and 4.3b. Overall, the proposed development would affect 0.15 hectares of QI habitat and 0.28 hectares of degraded/cutover QI habitat, based on the revised NIS.

10.3.41. In the section of the revised NIS discussing potential impacts to these two habitats (section 5.1), the implication is that the 0.05 hectares of active blanket bog / 0.33 hectares of active/cutover/degraded blanket bog that would be affected by the proposed development is minimal in the context of the overall SAC area. The percentage figures provided are misleading in the context of the nature of the large SAC which also encompasses lakes, coastal waters, and grasslands. The two areas of active blanket bog 'are representative of isolated and fragmented blanket bog habitats that have already been perturbed …' Figures 4.3a and 4.3b only show the

habitats specifically affected by the development footprint and not the wider QI habitats of which the active blanket bog and wet heath to be removed may form part of. The applicant considers the area of blanket bog to be lost is negligible with an imperceptible impact on this habitat within the SAC. 'This loss is considered to be representative of a de-minimis effect … to this habitat' (page 86).

10.3.42. The NIS sets out a similar argument with wet heath stating that the 0.1 hectare of wet heath to be removed would be negligible and would have a de minimis effect.

10.3.43. The Department's submission states, inter alia, 'any loss of QI habitat is considered an adverse impact and thus a risk to the European sites integrity'. I note that the conservation objective for both active blanket bog and northern Atlantic wet heath in the Conservation Objective Series document is to restore the favourable conservation condition of both habitats. For both habitats, the target for the attribute 'habitat area' is 'stable or increasing, subject to natural processes'. I acknowledge that the area of both active blanket bog and wet heath to be removed is relatively limited. Notwithstanding, the fact remains that, if the proposed development proceeded, areas of active blanket bog, a priority habitat, and wet heath, both QIs of the SAC, would be actively and permanently removed. In my opinion, having regard to the relevant attributes and targets of the QI habitats, to permit the development would be to adversely impact the integrity of the SAC.

10.3.44. While I note the planning history of the site, and in particular the previous wind energy related applications affecting the SAC, the planning application subject of this appeal is a stand-alone application, unrelated to previous applications. The application must be considered on its own merits. While previous applications are clearly of interest, the application would not be granted just because previous applications were. Infrastructure previously provided is not adequate as access points need to be further splayed and existing tracks need to be widened, and in any event the site layout plans show that the existing tracks and hardstandings on site play a limited role given the extent of new tracks and hardstandings proposed.

10.3.45. The proposed development would involve the permanent loss of 0.15 hectares of active blanket bog and wet heath habitat from West of Ardara / Maas Road SAC. Both have the conservation objectives to restore the favourable conservation condition of the habitats and both have, as a habitat area attribute, the target of 'stable or

increasing, subject to natural processes'. The proposed development would adversely impact on this. The applicant's position is that the loss of these areas is negligible in the context of the SAC. Article 6(3) of the Habitats Directive states, inter alia, 'the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned …' I consider that the loss of QI habitats from West of Ardara / Maas Road SAC would adversely affect the integrity of the site. Article 6(4) permits the development to proceed in spite of a negative assessment under article 6(3) in certain circumstances. These cannot reasonably be considered to apply in this instance.

10.3.46. Therefore, notwithstanding the following sections which further consider the application in the context of AA, I consider that a refusal of permission is warranted on the basis that the proposed development would adversely affect the integrity of the site.

Aspects of the Proposed Development that could Affect Conservation Objectives

10.3.47. According to the NIS there is potential for impacts on QIs of the SAC as a result of:

- Habitat loss – This is addressed in paragraphs 10.3.37 – 10.3.46, above,
- Increase in hydraulic loading during operation affecting oligotrophic lakes, salmon, and otter,
- Release of contaminants during construction and to a lesser extent during operation (suspended solids, hydrocarbons, construction or cementitious material, waste water or sanitation contaminants), and,
- Construction/modification of watercourse crossings could potentially impact on hydrology and water quality according to the NIS. However, I do not consider these issues would specifically affect the QIs and is unnecessary as a stand-alone potential adverse impact. There is an absence of salmon and otter on the development site. Water quality is largely addressed under the 'release of contaminants' issue, above. While not a source of potential adverse effects on the QIs and I consider that it can be excluded, certain recommended mitigation measures would be relevant.

10.3.48. There is potential for impacts on SCIs of the SPAs as a result of:

- Displacement and loss of habitat resulting from disturbance, barrier effects, and avoidance during operation,
- Collision with wind turbines.

10.3.49. I agree that these are the issues that could affect the QIs and SCIs of the SAC and SPAs. Tables 2 to 9, below, summarise the AA and site integrity tests for the relevant European sites. The tables are based on the NIS and NPWS data etc. The relevant conservation objectives for the European sites have been examined and assessed with regard to the identified potential significant effects and all aspects of the project both alone and in-combination with other plans and projects. Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been assessed and clear, precise, and definitive conclusions reached in terms of adverse effects on the integrity of the European sites.

Tables 2 to 9: Summary of Appropriate Assessment of implications of the proposed development on the integrity of the European sites alone and in-combination with other plans and projects in view of the sites' conservation objectives.

Table 2 – West of Ardara / Maas Road SAC (site code 000197)					
Summary of key issues that could give rise to adverse effects: • **Habitat loss** • **Hydraulic loading** • **Release of contaminants** **Conservation objectives: see https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000197.pdf**					
Summary of Appropriate Assessment					
Qualifying interest (QI) feature	**Conservation objectives**	**Potential adverse effects**	**Mitigation measures**	**In-combination effects**	**Can adverse effects on integrity be excluded?**
Oligotrophic waters containing very few minerals of sandy plains [3110]	To maintain the favourable conservation condition of this habitat	*Hydraulic loading* – Increased volumes of runoff during operation relative to baseline could exacerbate flooding and impact hydro morphology downstream and/or exacerbate flooding and erosion on site. *Release of contaminants* – This could add to turbidity,	Measures as set out in section 6 of the NIS include: Earthworks – a material management plan will be established, suitable and covered temporary stockpile locations, will not occur during sustained or intense rainfall periods, and drainage infrastructure constructed in advance of excavations. Excavations – General drainage works and engineered drainage and attenuation features in advance of excavations, controlled dewatering. Construction water management, dewatering, treatment, and discharge of trade effluent –	The NIS notes the adjacent Loughderryduff wind farm. It states that vegetation is recovering well, and the ecological integrity of loughs has been retained. The main activities in the area are forestry and turbary. Potential surface water runoff with	Yes. The NIS states that the project was identified as having the potential to result in adverse effects to the oligotrophic habitat of Lough Namaghlagh. Once the mitigation prescribed is implemented it will remove the risk of adverse effects to this habitat and associated QI species of salmon

		reduce light penetration, eutrophication, toxicity to flora and fauna, local change in hydrochemistry etc.	Runoff will be contained and contaminated construction water will be pumped to the treatment train. Release and transport of suspended solids – Management systems to be installed prior to main construction activities and during dry ground conditions. Release of hydrocarbons – Refuelling in bunded areas, regular checks on equipment, use of oil absorbent booms, spill kits. Construction and cementitious materials – Use of precast concrete where possible, high standard shuttering, pouring concrete in dry periods, no storage of surplus concrete. Watercourse crossings – Single-span structures, ensure adequate hydraulic capacity, minimal disturbance or alteration of water flow, consultation with relevant guidance, works during periods of dry weather and carried out as quickly as possible, use of precast concrete. Emergency response – Corrective action measures outlined for a number of potential scenarios. Monitoring – During the construction phase an ECoW will be appointed and their responsibilities are outlined. Spoil storage mitigation – Excavations and temporary stockpiles are unavoidable. Measures	elevated levels of nutrients or contaminants could combine with forestry pressures to waterbodies, particularly Lough Namanlagh. The NIS states that past peat harvesting surrounding the development site has resulted in extensive disturbance to peatland habitats and the loss of blanket bog and wet heath habitat in favourable conservation condition. Additional harvesting and drainage pose a threat to the water quality status of receiving bodies. I agree with this consideration of in-combination effects Notwithstanding, I note that mitigation measures are in	and otter. I note that this would also apply to the three other such lakes identified on map 9 of the Conservation Objectives Series to the south/south west which would also be affected by site drainage. The NIS states that the Board can conclude 'that the project will not, alone or in-combination with other plans or projects, result in adverse effects to the integrity and conservation status of European Sites in view of their Conservation Objectives and on the basis of the best scientific evidence and there is no reasonable scientific doubt as to that conclusion'. I agree with this conclusion in so far as

			include temporary stockpiles only, no higher than particular heights, and located on particular ground. Commentary is provided on restoration of vegetation, and stripping and storage of turves. Vehicular movement mitigation measures are outlined. Ground stability measures include supervision of excavations and construction by a geotechnical engineer / engineering geologist. Waste materials mitigation measures are provided.	place to ensure these in-combination effects do not arise.	it relates to this QI habitat and the associated QI species salmon and otter.
Northern Atlantic wet heaths with Erica tetralix [4010]	To restore the favourable conservation condition of this habitat	*Habitat loss* – Approx 0.1 hectare of wet heath will be removed.	Habitat management and enhancement measures are set out in section 6.5 of the NIS with the aim of restoring lost QI habitat areas. Measures such as turbary, grazing, and burning restrictions, blocking of artificial ditches, vegetation enhancement, and monitoring are referenced.	The NIS states that past peat harvesting surrounding the development site has resulted in extensive disturbance to peatland habitats and the loss of blanket bog and wet heath habitat in favourable conservation condition.	The NIS states in its conclusion that 'it was found that the project will not have the potential to undermine the conservation objective of the …SAC for peatland habitats'. I do not agree with this conclusion for the reasons set out in paragraphs 10.3.37 – 10.3.46 of this inspector's report. In my opinion the proposed development would adversely affect the site integrity because

					of the removal of active blanket bog and wet heath habitats.
Blanket bogs (* if active bog) [7130]	To restore the favourable conservation condition of this habitat	*Habitat loss* – Approx. 0.05 hectare of blanket bog will be removed.	As above	As above	As above
Salmon [1106]	To maintain the favourable conservation condition of this species	*Hydraulic loading* – As per [3110]. *Release of contaminants* – As per [3110]. In addition, the release of contaminants could affect spawning redds, reduce prey resource, reduce availability and quality of rearing habitat, and impair the ability to find food, Clogging of gills can also occur.	As per [3110]	As per [3110]	As per [3110]
Otter [1355]	To maintain the favourable conservation	*Hydraulic loading* – As per [3110]. *Release of contaminants* – As	As per [3110]	As per [3110]	As per [3110]

	condition of this species	per [3110]. In addition, the release of contaminants could reduce suitable foraging habitat and prey availability.			
Slender Naiad [1833]	To maintain the favourable conservation condition of this species	*Hydraulic loading* – As per [3110]. *Release of contaminants* – As per [3110].	As per [3110]	As per [3110]	As per [3110]
Overall Conclusion: Integrity Test I am not able to ascertain with confidence that the construction and operation of the proposed development would not adversely affect the integrity of West of Ardara / Maas Road SAC in light of the site's conservation objectives.					

Table 3 – Sheskinmore Lough SPA (site code 004090)

Summary of key issues that could give rise to adverse effects:

- **Displacement**
- **Collision risk**

Conservation objectives: see https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004090.pdf

Summary of Appropriate Assessment

Special conservation interest (SCI) feature	Conservation objectives	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Greenland white-fronted goose [A395]	To maintain or restore the favourable conservation condition of the bird species listed as SCIs for this SPA	*Displacement* - Resulting from disturbance, barrier effects, and avoidance. *Collision risk* – From turbines during operation.	N/A	The nine-turbine Loughderryduff wind farm is located adjacent to the development site. These turbines are significantly lower than the proposed turbines.	Yes. The NIS notes that the bird surveys consistently recorded an absence of this species indicating it does not rely on the site/area for roosting or foraging. Given this, there will be no potential for disturbance or displacement during construction or operation. Scottish National Heritage has a 99.8% avoidance rate for all species of geese. Evidence points to the conclusion that geese do not collide with wind farms in numbers of conservation concern. Given this scientific evidence and absence of flight activity there will be no potential for collision risk. Lough Nillan Bog SPA provides a feeding ground for Sheskinmore Lough SPA geese. The nearest point of any direct flight line between both is more than 2km from the development site.

Overall Conclusion: Integrity Test

I am able to ascertain with confidence that the construction and operation of the proposed development would not adversely affect the integrity of Sheskinmore Lough SPA in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects

Table 4 – Inishkeel SPA (site code 004116)

Summary of key issues that could give rise to adverse effects:

- **Displacement**
- **Collision risk**

Conservation objectives: see https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004116.pdf

Summary of Appropriate Assessment

Special conservation interest (SCI) feature	Conservation objectives	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Barnacle goose [A045]	To maintain or restore the favourable conservation condition of the bird species listed as SCIs for this SPA	*Displacement* - Resulting from disturbance, barrier effects, and avoidance. *Collision risk* – From turbines during operation.	N/A	The nine-turbine Loughderryduff wind farm is located adjacent to the development site. These turbines are significantly lower than the proposed turbines.	Yes. The NIS notes that the bird surveys consistently recorded an absence of this species indicating it does not rely on the site/area for roosting or foraging. Given this, there will be no potential for disturbance or displacement during construction or operation. Scottish National Heritage has a 99.8% avoidance rate for all species of geese. Evidence points to the conclusion that geese do not collide with wind farms in numbers of conservation concern. Given this scientific evidence and absence of flight activity there will be no potential for collision risk.

Overall Conclusion: Integrity Test

I am able to ascertain with confidence that the construction and operation of the proposed development would not adversely affect the integrity of Inishkeel SPA in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects

Table 5 – Lough Nillan Bog SPA (site code 004110)					
Summary of key issues that could give rise to adverse effects: • **Displacement** • **Collision risk** **Conservation objectives: see https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004110.pdf**					
Summary of Appropriate Assessment					
Special conservation interest (SCI) feature	**Conservation objectives**	**Potential adverse effects**	**Mitigation measures**	**In-combination effects**	**Can adverse effects on integrity be excluded?**
Merlin [A098]	To maintain or restore the favourable conservation condition of the bird species listed as SCIs for this SPA	*Displacement* - Resulting from disturbance, barrier effects, and avoidance. *Collision risk* – From turbines during operation.	N/A	The nine-turbine Loughderryduff wind farm is located adjacent to the development site. These turbines are significantly lower than the proposed turbines.	Yes. Merlin does not breed or roost at or in the vicinity of the development site or rely on the habitats occurring for foraging. The development site is located approx. 6.3km from the SPA. The construction or operational phases will not present a risk of adverse effects to the population. The majority of foraging flights are undertaken at low height and they rarely fly upwards in pursuit of prey. Scottish Natural Heritage assign a 98% avoidance rate for merlin from turbines 'indicating a high level of avoidance'. Based on avoidance rate and surveys indicating very low usage the probability of merlin collision 'is predicted to be negligible' as is the in-combination risk.
Greenland white-fronted goose [A395]	As above	As above	N/A	As above	Yes. The NIS notes that the bird surveys consistently recorded an absence of this species indicating it does not rely on the site/area for roosting or foraging. Given this, there will be no potential for disturbance or displacement during construction or operation.

					Scottish National Heritage has a 99.8% avoidance rate for all species of geese. Evidence points to the conclusion that geese do not collide with wind farms in numbers of conservation concern. Given this scientific evidence and absence of flight activity there will be no potential for collision risk. Lough Nillan Bog SPA provides a feeding ground for Sheskinmore Lough SPA geese. The nearest point of any direct flight line between both is more than 2km from the development site.
For the remaining two species (golden plover and dunlin) please see paragraph 10.3.24 of this inspector's report.	N/A	N/A	N/A	N/A	N/A
Overall Conclusion: Integrity Test I am able to ascertain with confidence that the construction and operation of the proposed development would not adversely affect the integrity of Lough Nillan Bog SPA in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.					

Table 6 – West Donegal Coast SPA (site code 004150)
Summary of key issues that could give rise to adverse effects: • **Displacement** • **Collision risk** **Conservation objectives: see https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004150.pdf**

Summary of Appropriate Assessment					
Special conservation interest (SCI) feature	**Conservation objectives**	**Potential adverse effects**	**Mitigation measures**	**In-combination effects**	**Can adverse effects on integrity be excluded?**
Cormorant [A017]	To maintain or restore the favourable conservation condition of the bird species listed as SCIs for this SPA	*Displacement* - Resulting from disturbance, barrier effects, and avoidance. *Collision risk* – From turbines during operation.	N/A	The nine-turbine Loughderryduff wind farm is located adjacent to the development site. These turbines are significantly lower than the proposed turbines.	Yes. Cormorant do not breed at or in the vicinity of the development site or rely on the habitats occurring for foraging. The nearby lakes are not relied upon by this species. Cormorants are 'known to display a high avoidance rate of operating wind turbines' and are 'relatively tolerant of human presence and activity'. There would be a low level of disturbance during construction and operation. Based on the very low levels of flight activity for cormorants (only two recorded) the risk of collision is low.
Herring gull [A184]	As above	As above	N/A	As above	Yes. Herring gull do not breed at or in the vicinity of the development site or rely on the habitats occurring for foraging. The nearby lakes are not relied upon by this species. Herring gulls are 'known to display a high avoidance rate of operating wind turbines'. There will be no potential to result in a significant adverse displacement impact during construction and operation. One study has reported a very high avoidance rate of >99.95% for gulls. The bird surveys 'indicate that the potential for collision with turbines will be limited as Herring Gulls flight paths are located to the north of the (wind farm). The species rarely flew through the existing wind farm or the development site.
For the remaining six species (fulmar, shag, peregrine, kittiwake, razorbill, and chough)	N/A	N/A	N/A	N/A	N/A

please see paragraph 10.3.26 of this inspector's report.					

Overall Conclusion: Integrity Test

I am able to ascertain with confidence that the construction and operation of the proposed development would not adversely affect the integrity of West Donegal Coast SPA in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.

Table 7 – Roaninish SPA (site code 004121)

Summary of key issues that could give rise to adverse effects:

- **Displacement**
- **Collision risk**

Conservation objectives: see https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004121.pdf

Summary of Appropriate Assessment

Special conservation interest (SCI) feature	Conservation objectives	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Barnacle goose [A045]	To maintain or restore the favourable conservation condition of the bird species listed	*Displacement* - Resulting from disturbance, barrier effects, and avoidance. *Collision risk* – From turbines	N/A	The nine-turbine Loughderryduff wind farm is located adjacent to the development site. These turbines are significantly	Yes. The NIS notes that the bird surveys consistently recorded an absence of this species indicating it does not rely on the site/area for roosting or foraging. Given this, there will be no potential for disturbance or displacement during construction or operation. Scottish National Heritage has a 99.8% avoidance rate for all species of geese. Evidence points to the conclusion that geese do not collide with wind farms in numbers of conservation

	as SCIs for this SPA	during operation.		lower than the proposed turbines.	concern. Given this scientific evidence and absence of flight activity there will be no potential for collision risk.
Herring gull [A184]	As above	As above	N/A	As above	Yes. Herring gull do not breed at or in the vicinity of the development site or rely on the habitats occurring for foraging. The nearby lakes are not relied upon by this species. Herring gulls are 'known to display a high avoidance rate of operating wind turbines'. There will be no potential to result in a significant adverse displacement impact during construction and operation. One study has reported a very high avoidance rate of >99.95% for gulls. The bird surveys 'indicate that the potential for collision with turbines will be limited as Herring Gulls flight paths are located to the north of the (wind farm). The species rarely flew through the existing wind farm or the development site.
Overall Conclusion: Integrity Test I am able to ascertain with confidence that the construction and operation of the proposed development would not adversely affect the integrity of Roaninish SPA in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.					

Table 8 – Derryveagh and Glendowan Mountains SPA (site code 004039)
Summary of key issues that could give rise to adverse effects: • **Displacement** • **Collision risk** **Conservation objectives: see https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004039.pdf**
Summary of Appropriate Assessment

Special conservation interest (SCI) feature	Conservation objectives	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Merlin [A098]	To maintain or restore the favourable conservation condition of the bird species listed as SCIs for this SPA	*Displacement* - Resulting from disturbance, barrier effects, and avoidance. *Collision risk* – From turbines during operation.	N/A	The nine-turbine Loughderryduff wind farm is located adjacent to the development site. These turbines are significantly lower than the proposed turbines.	Yes. Merlin does not breed or roost at or in the vicinity of the development site or rely on the habitats occurring for foraging. The development site is located approx. 13km from the SPA. The construction or operational phases will not present a risk of adverse effects to the population. The majority of foraging flights are undertaken at low height and they rarely fly upwards in pursuit of prey. Scottish Natural Heritage assign a 98% avoidance rate for merlin from turbines 'indicating a high level of avoidance'. Based on avoidance rate and surveys indicating very low usage the probability of merlin collision 'is predicted to be negligible' as is the in-combination risk.
For the remaining four species (red-throated diver, peregrine, golden plover and dunlin) please see paragraphs 10.3.26 and 10.3.30 of this inspector's report.	N/A	N/A	N/A	N/A	N/A
Overall Conclusion: Integrity Test I am able to ascertain with confidence that the construction and operation of the proposed development would not adversely affect the integrity of Derryveagh and Glendowan Mountains SPA in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.					

Table 9 – Illancrone and Inishkeeragh SPA (site code 004132)					
Summary of key issues that could give rise to adverse effects: • **Displacement** • **Collision risk** **Conservation objectives: see https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004132.pdf**					
Summary of Appropriate Assessment					
Special conservation interest (SCI) feature	**Conservation objectives**	**Potential adverse effects**	**Mitigation measures**	**In-combination effects**	**Can adverse effects on integrity be excluded?**
Barnacle goose [A045]	To maintain or restore the favourable conservation condition of the bird species listed as SCIs for this SPA	*Displacement* - Resulting from disturbance, barrier effects, and avoidance. *Collision risk* – From turbines during operation.	N/A	The nine-turbine Loughderryduff wind farm is located adjacent to the development site. These turbines are significantly lower than the proposed turbines.	Yes. The NIS notes that the bird surveys consistently recorded an absence of this species indicating it does not rely on the site/area for roosting or foraging. Given this, there will be no potential for disturbance or displacement during construction or operation. Scottish National Heritage has a 99.8% avoidance rate for all species of geese. Evidence points to the conclusion that geese do not collide with wind farms in numbers of conservation concern. Given this scientific evidence and absence of flight activity there will be no potential for collision risk.
For the remaining three species (common, Arctic, and little terns) please see paragraph 10.3.32	N/A	N/A	N/A	N/A	N/A

of this inspector's report.					

Overall Conclusion: Integrity Test

I am able to ascertain with confidence that the construction and operation of the proposed development would not adversely affect the integrity of Illancrone and Inishkeeragh SPA in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.

10.3.50. Full and detailed mitigation measures are set out in section 6 of the NIS from pages 125-163. The measures outlined in tables 2-9 above are very brief summations of some of the measures proposed and are not an exhaustive list of the measures contained within the NIS. A number of various plans are referenced within the NIS including a CEMP, SWMP, and a materials management plan. Individuals to be appointed are specified e.g. ECoW, project ecologist, and a geotechnical engineer / engineering geologist.

10.3.51. Generally, I consider that the proposed mitigation measures related to the proposed development are relatively standard, well-proven good practice measures for construction works in peatland areas. I consider that the proposed measures are suitably detailed regarding potential adverse effects and that they are capable of being successfully implemented. Notwithstanding the measures outlined, I do not consider that the removal of areas of two QI habitats can be adequately mitigated, and this removal would adversely affect the integrity of the SAC.

In-Combination Effects

10.3.52. The main development of note is the existing adjacent Loughderryduff wind farm. Having regard to the potential displacement and collision risk to birds associated with wind turbines I consider that the bird surveys and other data have adequately demonstrated that there would be no significant in-combination effect between the existing and proposed developments. I consider that the proposed surface water mitigation is sufficient to address any surface water concerns from the proposed development in-combination with forestry or turbary activity in the vicinity. I agree with the NIS finding that no adverse in-combination impacts are foreseen with any other plan or project.

Appropriate Assessment (AA) Conclusion

10.3.53. The proposed wind farm development has been considered in light of the assessment requirements of sections 177U and 177V of the Planning & Development Act, 2000 (as amended).

10.3.54. Having carried out screening for AA of the project it was concluded that it may have a significant effect on West of Ardara / Maas Road SAC, Sheskinmore Lough SPA, Inishkeel SPA, Lough Nillan Bog SPA, West Donegal Coast SPA, Roaninish SPA, Derryveagh and Glendowan Mountains SPA, and Illancrone and Inishkeeragh SPA.

Consequently, AA was required of the implications of the project on the qualifying interests and special conservation interests of those sites in light of their conservation objectives.

10.3.55. Following AA, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would adversely affect the integrity of West of Ardara / Maas Road SAC (site code 000197) in view of the site's conservation objectives, given the removal of active blanket bog and wet heath as required by the proposed development, both qualifying interests of the SAC.

11.0 **Recommendation**

11.1. I recommend that the planning application be refused for the following reasons.

12.0 **Reasons**

1. Policy E-P-12 of the County Donegal Development Plan 2018-2024 (as varied) states that it is a policy of the Council that the principle of the acceptability or otherwise of proposed wind farm developments shall be generally determined in accordance with the three areas identified in map 8.2.1 'Wind Energy' and specific biodiversity related requirements. Proposed turbines 2 and 3 and their associated hardstandings and access tracks are located in an area identified as not normally permissible and the proposed development would not comply with the subsections outlined under 1 (c) of the policy. It is considered that the proposed development would materially contravene Policy E-P-12 of the County Donegal Development Plan 2018-2014 (as varied), and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of certain site infrastructure within West of Ardara / Maas Road Special Area of Conservation (SAC) (site code 000197), the proposed development would result in the significant loss of northern Atlantic

wet heaths with Erica tetralix [4010] and active blanket bog [7130] habitats which are included on Annex I of the European Union Habitats Directive of 1992. It is therefore considered that the Board is unable to ascertain, as required by Regulation 27(3) of the European Communities (Natural Habitats) Regulations, 1997, that the proposed development will not adversely affect the integrity of a European site and it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Anthony Kelly
Planning Inspector
25th July 2023