



An  
Bord  
Pleanála

## Inspector's Report ABP-316163-23

### Development

Permission for a period of 10 years to construct and complete a solar PV development with a total site area of circa 38.6 hectares, to include PV panels mounted on metal frames, new access tracks, underground cabling, perimeter fencing with CCTV cameras, 4 No. transformer stations, 2 No. weather stations, access gates and all associated works. Access will be gained from the existing farmyard entrance and a temporary access track which were consented as part of the original Tomsallagh Solar Farm application (PL Ref: 20180055, ABP Ref. No. 301329-18) off the Clone Road to the east of the site. The solar farm would be operational for 40 years. A Natura Impact Statement will be submitted to the planning authority with the application.

### Location

Tomsallagh, Enniscorthy, Co.  
Wexford.

<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20230009
<b>Applicant(s)</b>	WXD Energy Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal

<b>Type of Appeal</b>	First Party v. Decision
<b>Appellant(s)</b>	WXD Energy Limited
<b>Observer(s)</b>	None.

<b>Date of Site Inspection</b>	15 <sup>th</sup> December, 2023
<b>Inspector</b>	Robert Speer

## 1.0 Site Location and Description

- 1.1. The proposed development site is located in the rural townland of Tomsallagh, Co. Wexford, approximately 7.0km northeast of Enniscorthy and c. 3.5km south of Ferns, where it occupies a position to the northwest of Tinnacross Crossroads and the M11 (Gorey to Enniscorthy) Motorway. The surrounding area is primarily agricultural with instances of commercial forestry and is characterised by an undulating rural landscape interspersed with individual farmsteads and one-off rural housing with several such properties located along the roadways to the immediate north and east of the site.
- 1.2. The site itself has a stated site area of c. 38.6 hectares, is irregularly shaped and presently comprises a series of 12 No. agricultural fields (which form part of a larger landholding), several of which are set as coniferous forestry for the production of Christmas trees. Both the site and the wider landholding are bounded in part by minor local roadways to the north / northwest and east whilst the remaining boundaries adjoin agricultural lands, save for the south-eastern extent of the landholding which abuts the Tinnacross Stream. Access to the site is obtained via an existing splayed entrance arrangement onto the local roadway to the immediate east which serves an adjacent farmyard and associated outbuildings, although a second temporary access has also been permitted further south along the same road. The site topography is generally characterised by a gradual fall south / south-eastwards towards the Tinnacross Stream with the lands either side of same rising to the northwest and southeast respectively.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a solar PV development within a total site area of circa 38.6 hectares as an extension / expansion of the solar farm already permitted on neighbouring lands pursuant to PA Ref. No. 20180055 / ABP Ref. No. ABP-301329-18. It includes for the following:
  - Ground-mounted solar photovoltaic panels set within metal framework racks elevated above the ground surface and assembled in south-facing rows (arrays) east to west over the development area. The panels will be fixed at an angle of 10-30° to the horizontal while the lower edge of the array will be a

minimum of 0.8m in height over ground with the highest edge to be 3.2m. The panels will be situated in an elevated position to allow air flow around the modules which will encourage vegetation to grow beneath them.

The metal support structures will utilise piles driven into the ground thereby removing the need for deeper foundations.

- 4 No. transformer stations (comprising modified steel shipping containers consisting of HV & LV switchgear, communications equipment and storage space).
- 2 No. weather stations (to be positioned alongside two of the transformer stations).
- Underground cabling.
- Perimeter (deer-type) fencing extending up to 1.9m in height supported by treated wooden posts (a minimum of 2m in height) and incorporating mammal crossing points.
- CCTV cameras (atop 5m high support poles).
- New access / maintenance tracks.
- Access gates and all associated site works. Access will be gained from the existing farmyard entrance and a temporary access track previously permitted under PA Ref. No. 20180055 / ABP Ref. No. ABP-301329-18 off the Clone Road to the east of the site.

2.2. The proposal has sought a 10-year permission.

(An indicative routing for an underground grid connection between the already permitted solar farm and the Crane substation to the southwest was included as part of the documentation submitted with PA Ref. No. 20180055 / ABP Ref. No. ABP-301329-18).

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On 3<sup>rd</sup> March, 2023 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 3 No. reasons:

- Having regard to the insufficient data submitted with the planning application to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site. The proposed development is therefore considered at variance with the official policy in relation to control of development on / affecting national roads, as outlined in the Department of Environment, Community and Local Government Spatial Planning and National Roads Guidelines for Planning Authorities (2012), as the proposed development by itself, or by precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network. The proposed development would, therefore, be contrary to the proper planning and development of the area.
- Having regard to the nature of the proposed development located in close proximity, adjacent to a designated Slaney River Valley SAC and the absence of an assessment on the impact of the removal of trees in the Natura Impact Statement (NIS), there is potential for impacts on listed species and habitats for the Natura 2000 site. Therefore, it cannot be excluded, on the basis of objective information, that the proposed development will have a significant effect on the Natura 2000 sites, either individually or in combination with other plans or projects.
- It is policy under Section 4.2.5: Development Management Standards for Solar Farms of the Wexford County Development Plan, 2022-2028, 'No high value habitats (trees and hedgerows) should be lost as a result of the proposed development and the developer should consider opportunities to provide enhanced management of landscape features and habitats where appropriate'. Having regard to the significant tree loss that would occur, particularly in relation to land parcels 7 and 10 as shown on Figure 3 Field

Numbers and Figure 12 Block Plan, it is considered the proposed development would negatively impact existing habitats and local biodiversity which development plan policy seeks to protect. The proposed development would, therefore, be contrary to the proper planning and development of the area.

## 3.2. Planning Authority Reports

### 3.2.1. *Planning Reports*

Details the site context, planning history and the relevant policy considerations along with all the submissions and reports received in relation to the proposed development. The report proceeds to analyse the proposal, including its impact on biodiversity and landscape considerations, and acknowledges the benefits which will derive from the proposed development in terms of the production of renewable energy and the associated contribution to a reduction in greenhouse gas emissions. However, the report subsequently states that insufficient information has been provided to demonstrate that the proposed development would not have an adverse effect upon the operation and management of the adjacent national road (the M11) and local biodiversity / habitats before then recommending a refusal of permission. Supplementary commentary by the Senior Executive Planner notes that Transport Infrastructure Ireland raised concerns as regards the potential for glint and glare from the proposed development to impact on the operation of the motorway while the Roads Section also recommended refusal due to the '*impact to the operational efficiency of the adjacent national road*'. Reference is then made to concerns raised by Inland Fisheries Ireland as regards the proposed removal of a wooded area and the potential for downstream impacts on the River Slaney. The report concludes by recommending a refusal of permission for the reasons stated.

### 3.2.2. *Other Technical Reports*

*Roads Department (Gorey – Kilmuckridge Municipal District):* Recommends that permission be refused and concurs with the submission made by Transport Infrastructure Ireland as regards the inadequacy of the evidence provided that the proposed development would not result in a glint and glare impact on the adjoining

national road. The report subsequently advises that the applicant should note the following in any future planning application:

- A Road Opening Licence should be discussed and agreed with the Roads Engineer prior to submission.
- A detailed route will be required for connection to the Crane Substation prior to submission.
- A pre-condition survey will be required for the full haul route from the R772 Regional Road to the proposed site access.

*Environment:* Recommends that the applicant be requested to submit the following further information:

- Details of the welfare facilities to be located in the temporary construction compounds.
- Revised site layout plans showing the location of any waste storage areas within the temporary construction compounds.
- A scaled map showing the actual watercourse along its full length on the site boundary.

### 3.3. Prescribed Bodies

3.3.1. *Transport Infrastructure Ireland:* States that the application is at variance with official policy in relation to the control of development on / affecting national roads, as outlined in the DoECLG '*Spatial Planning and National Roads, Guidelines for Planning Authorities*' (2012) as the proposed development 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 the following reasons:

- The Authority is of the opinion that insufficient data has been submitted with the planning application to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site.
- TII acknowledges that the subject application was accompanied by a Glint and Glare Assessment which assessed the proposed development's impact on adjoining road receptors, including the M11 national road. The adjoining

section of the M11 is carried on an elevated embankment overlooking the proposed development and TII considers that insufficient evidence has been provided in relation to the individual national road receptor points assessed to determine that the proposed development will not result in glint and glare impact to the adjoining national road.

- The Council should ensure sufficient evidence is provided to be satisfied that the safety levels on the adjoining national road are maintained, and required mitigation, where warranted, is sufficient to safeguard the significant levels of Exchequer investment in the national road network in the area.

3.3.2. *Inland Fisheries Ireland*: States the following:

- The proposed development borders the Tinnacross River while a number of small tributaries of that river flow through / adjacent to the site. The Tinnacross River is an important salmon spawning tributary of the Slaney River which has been designated as a Special Area of Conservation. The Slaney River and its tributaries are an important salmonid system, with excellent stocks of salmon, brown trout / sea trout, river lamprey, sea lamprey and brook lamprey, and the populations of salmon within the Tinnacross River are an integral component of the Slaney SAC populations.
- With regard to the construction works linked to the project (and the proposed development in general), the waters in fisheries terms likely to be impacted act primarily as contributories to downstream habitat for juvenile salmonids, lampreys and other species as well as macrophytes, algae and macro-invertebrates which as drift form a significant part of the food supply to downstream fisheries. They also, in the context of the proposed works, have the potential to convey deleterious matter from those works such as concrete, silt, fuel, lubricating and hydraulic oils from construction plant and equipment downstream unless proper safeguards are in place.
- A potential impact is the discharge of silt-laden waters to fisheries streams where earth moving and excavation works are ongoing. Silt can clog salmonid spawning beds, and juvenile salmonids are particularly sensitive to siltation of gill structures. Similarly, plant and macro-invertebrate communities can be blanketed over, and this can lead to loss or degradation of valuable habitat.



The potential for soil erosion / suspended solids generation is higher during / after periods of prolonged rainfall. Systems should be put in place to ensure that there shall be no discharge of suspended solids or any other deleterious matter to watercourses during the construction / operational phase and during any landscaping works.

- All oils and fuels should be stored in secure bunded areas, and particular care should be taken during refuelling and maintenance operations of plant and equipment. Bunding should be to a volume not less than the greater of the following: 110% of the capacity of the largest tank or drum within the bunded area, or 25% of the total volume of substance that could be stored within the bunded area. All plant and equipment should carry oil / fuel spill kits. Where site works involve the discharge of drainage water to receiving rivers and streams, temporary oil interceptor facilities should be installed and maintained. Waste oils, empty oil containers and other hazardous wastes should be disposed of in accordance with the requirements of the Waste Management Act, 1996.
- The IFI's concerns include:
  - It is important that all watercourses which flow through and adjacent to the proposed development site and shown on the OSI 6-inch maps are treated as salmonid channels and that there is no culverting of any of these smaller watercourses.
  - It is understood that some lands on site currently subject to commercial forestry are very wet in nature and that the potential for the release of suspended solids to surface waters from works on these wetter areas has significant potential to generate suspended solids pollution of the small streams draining the site and the Tinnacross River downstream.
  - All watercourses should be treated as salmonid watercourses as even watercourses that dry up represent the headwaters of important salmonid watercourses when they are conveying flows.
  - All watercourses are maintained in their original, open and natural channel and the existing line of the watercourses must not be altered.

- Systems should be put in place to ensure that there is no discharge of suspended solids or any other deleterious matter to watercourses during the construction phase and any landscaping works. These systems should be adequate to deal with periods of prolonged rainfall.
- Fuels, soils, greases and hydraulic fluids must be stored in bunded compounds.
- Refuelling of machinery must be carried out in bunded areas.
- All waste oil, empty oil containers and other hazardous wastes are disposed of in conjunction with the requirements of the Waste Management Act, 1996.
- All fuel & oil tanks must be adequately bunded.
- It is imperative that the potential for suspended solids pollution of adjoining watercourses from road runoff from vehicles entering and leaving the site is addressed.

### 3.4. **Third Party Observations**

None.

## 4.0 **Relevant Planning History**

### 4.1. **On Site:**

- 4.1.1. PA Ref. No. 20180055 / ABP Ref. No. ABP-301329-18. Was granted on appeal on 11<sup>th</sup> December, 2018 permitting WXD Energy Ltd. a 10-year permission for the construction of a solar PV energy development within a total site area of up to 24 hectares, to include one single storey electrical substation building, electrical transformer/inverter station modules, battery storage modules, solar PV panels ground mounted on steel support structures, access roads, fencing and associated electrical cabling, ducting and ancillary infrastructure.

### 4.2. **On Adjacent Sites:**

None.

### 4.3. On Sites in the Immediate Vicinity:

#### 4.3.1. *(approximately 200m to the southwest):*

PA Ref. No. 20171275 / ABP Ref. No. ABP-300427-17. Was granted on appeal on 10<sup>th</sup> October, 2017 permitting JBM Solar Developments Ltd. a 10 year permission for the construction of a solar PV energy development comprising installation of solar photovoltaic (PV) panels on ground mounted frames / support structures within existing field boundaries; underground cabling and ducting; 11 No. inverter / transformer stations; 11 No. HV cabins; 2 No. electricity control buildings with associated hard standing area; 1 No. communications cabin, site perimeter stock-proof security fencing (c. 36 Ha); CCTV security cameras; upgrade of existing agricultural site entrance located to the north of the site for construction and operational access; site access tracks; landscaping and all associated site development works; and a temporary construction compound. All at Tomsallagh, Ferns, Co. Wexford.

#### 4.3.2. *(approximately 2.0km to the southwest):*

PA Ref. No. 20171127. Was granted on 11<sup>th</sup> October, 2017 permitting Renewable Energy Systems Ltd. permission for the development of a temporary (27 years) ground-mounted solar photovoltaic (PV) farm to generate renewable electricity on a 12.7 Ha site, comprising solar arrays, energy storage, associated electrical infrastructure, fencing, access improvements, and ecologically beneficial landscape works at Killabeg, Tinnacross, Co. Wexford.

4.3.3. PA Ref. No. 20171680. Was granted on 14<sup>th</sup> February, 2018 permitting Renewable Energy Systems Ltd. permission for the development of a temporary (27 years) ground mounted solar panel photovoltaic (PV) farm to generate renewable electricity on a 10.4 Ha site, comprising solar arrays, energy storage, associated electrical infrastructure, fencing, access improvements, and ecologically beneficial landscape works. All at Killabeg, Enniscorthy, Co. Wexford.

4.3.4. PA Ref. No. 20190441 / ABP Ref. No. ABP-305854-19. Was granted on appeal on 14<sup>th</sup> February, 2020 permitting Renewable Energy Systems (RES) Limited permission to amend the design of the approved development (planning register reference number 20171680) which comprises consent for the development of a temporary (25 years) ground mounted solar panel photovoltaic (PV) farm to generate

renewable electricity on a 10.4 hectare site, comprising solar arrays, associated electrical infrastructure, fencing, access improvements and ecologically beneficial landscape works subject to 15 conditions. Permission is also sought to amend the lifespan of the consented development from 25 years to 35 years. Amendments proposed are: no changes to red line boundary and reduction in closed circuit television cameras from 16 to 11, solar panel height increase from 2.3m to 2.5m, angle span amended from 20-30 degrees to 10-40 degrees. Panel layout slightly reconfigured, western perimeter fence removal to link with consented solar farm (planning register reference number 20171127). Fence change from mesh to deer fencing (Condition No. 14), access track increase of 17.5m<sup>2</sup>, replace combined energy storage area and temporary compound area (5,500m<sup>2</sup>) with 3,075m<sup>2</sup> energy storage area and 3,000m<sup>2</sup> temporary compound, removal of grid connection substation and three energy containers. Replace three solar farm substations with two slightly larger substations. Overall increase in ground disturbance at the construction stage of 766.5m<sup>2</sup>. Overall decrease in land-take for the duration of the operational stage of 2,233.5m<sup>2</sup>. All at Killabeg, Tinnacross, Co. Wexford.

- 4.3.5. PA Ref. No. 20190440 / ABP Ref. No. ABP-305852-19. Was granted on appeal on 14<sup>th</sup> February, 2020 permitting Renewable Energy Systems (RES) Limited permission to amend the design of the approved development (planning register reference number 20171127) which comprises consent for the development of a temporary (25 years) ground mounted solar panel photovoltaic farm to generate renewable electricity on a 12.7 hectares site, comprising solar arrays, associated electrical infrastructure, fencing, access improvements and ecologically beneficial landscape works at Killabeg, Tinnacross, subject to 15 conditions. Permission is also sought to amend the lifespan of the consented development from 25 years to 35 years. Amendments proposed are: no changes to red line boundary and reduction in cctv cameras from 16 to 11; solar panel height increase from 2.3m to 2.5m, angle span amended from 20-30 degrees to 10-40 degrees. Panel layout slightly reconfigured and increased; eastern perimeter fence removal to link with consented solar farm (planning register reference number 20171680). Fence change from mesh to deer (Condition No. 14); access track decrease of 1,802.5m<sup>2</sup>; removal of the energy storage area and increase of the overall construction compound area from 2,934.56m<sup>2</sup> to 3,033.06m<sup>2</sup>, change from four substations/energy storage containers

and one grid connection substation to two solar farm substations, a larger grid connection substation and increased areas of hardstanding resulting in their landtake increase of 62.06m<sup>2</sup>; overall decrease in ground disturbance at the construction stage by 1,641.94m<sup>2</sup>; overall decrease in land take for the duration of the operational stage by 2,490.44m<sup>2</sup>; all at Killabeg, Tinnacross, Co. Wexford.

4.3.6. PA Ref. No. 20200691. Was granted on 21<sup>st</sup> August, 2020 permitting Renewable Energy Systems Ltd. permission to amend the design of the approved development (Planning references 20171680 and 20190441) which comprises consent for the development of a temporary (25 years) ground mounted solar photo-voltaic (PV) farm to generate renewable electricity on a 10.4 hectare site. comprising solar arrays, associated electrical infrastructure, fencing, access improvements and ecologically beneficial landscape works subject to the planning conditions. Amendments proposed are: Changes to the energy storage area comprising: decrease in size of the energy storage area by 246m<sup>2</sup>; addition of 1.5m gravel strip surrounding the outside of the energy storage area; alterations to the layout within the energy storage area; additional grid connection infrastructure and grid compliance equipment; increase in area (3.9m<sup>2</sup> increase) and height (1.1m increase) of substation building; removal of welfare container; removal of 1 auxiliary transformer, reduction in height of fencing around the energy storage area from 3.0m to maximum of 2.6m; Increase in internal site track by 36m<sup>2</sup>; Addition of new temporary construction compound area (1,584m<sup>2</sup>) to be removed after construction; No changes to red line boundary, perimeter fence, solar panel layout, perimeter CCTV points or any other parts of the development. All at Killabeg, Tinnacross, Co. Wexford.

4.3.7. PA Ref. No. 20201080. Was granted on 3<sup>rd</sup> February, 2021 permitting Renewable Energy Systems Ltd. permission for the development of grid connection infrastructure to connect the approved solar farms and energy storage (consented under planning references 20171127, 20190440, 20171680, 20190441 and 20200691) to substation (the solar farms connecting at 20kV and the energy storage connecting at 38kV) on a 7.2 ha site, comprising the laying of 20kV and 38kV underground electricity cables and associated infrastructure, horizontal directional drilling, and upgrades to Crane substation (within the existing substation fence line) including extension of an existing 38kV busbar, installation of a new 38kV line bay,

extension of existing 38kV control room building, installation of new arc suppression coil and associated ancillary works. All at Killabeg & Grane, Tinnacross, Co. Wexford.

- 4.3.8. PA Ref. No. 20211112. Was granted on 3<sup>rd</sup> September, 2021 permitting Renewable Energy Systems Ltd. permission to amend the design of the approved development (Planning references 20171680, 20190441 and 20200691) which comprises consent for the development of a temporary (25 years) ground mounted solar photovoltaic (PV) farm to generate renewable electricity on a 10.4 hectare site, comprising solar arrays, associated electrical infrastructure, fencing, access improvements and ecologically beneficial landscape works. Amendments proposed are: Slight increase in swept area of access track south of site entrance and into energy storage area; Changes to the energy storage area comprising: removal of 2 battery enclosures and associated power conversion system and transformer; minor alterations to the equipment layout within the energy storage area; system transformers extended to allow for additional ancillary equipment; use of asphalt at the hardstanding area; minor alterations to the substation building including a reduction in roof height, a small communications antennae and works access lighting to front and rear; an additional pedestrian gate to the southwest; No changes to red line boundary, perimeter fence, solar panel layout, perimeter CCTV points or any other parts of the development. All at Killabeg, Tinnacross, Co. Wexford.

#### 4.4. **Other Relevant Files:**

- 4.4.1. ABP Ref. No. 26.MA0009. Was determined on 4<sup>th</sup> March, 2010 approving the scheme entitled “M11 Gorey to Enniscorthy Scheme”, from Clough, Gorey, Co. Wexford to Scurlocks bush, Enniscorthy, Co. Wexford.

## 5.0 **Policy and Context**

### 5.1. **National Policy**

#### 5.1.1. **The Programme for Government - Our Shared Future:**

The current programme commits to an average 7% reduction in greenhouse gas (GHG) emissions per annum over the 2021-2030 period (a 51% reduction over the decade) and the achievement of net zero emissions by 2050. It states that the

reliable supply of safe, secure and clean energy will be essential in order to deliver a phase-out of fossil fuels and commits to taking the necessary action to deliver at least 70% of renewable electricity by 2030.

#### 5.1.2. **Project Ireland 2040: National Planning Framework, 2018:**

The National Planning Framework (NPF) sets out a vision for the future development of the country and includes strategic goals in respect of transitioning to a low carbon and climate resilient society. It contains a number of relevant National Strategic Outcomes (NSOs) and National Policy Objectives (NPOs) which can be summarised as follows:

- *NSO 8: Transition to a Low Carbon and Climate Resilient Society:*  
Recognises that the diversification of energy production systems away from fossil fuels and towards a more renewables focused energy generation system (utilising sources such as wind, wave, solar and biomass) will be necessary. It includes an aim to deliver 40% of electricity needs from renewable sources by 2020, with further increases through to 2030 and beyond in accordance with EU and national policy.
- *NPO 23:* Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.
- *NPO 54:* Reduce our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions reductions.
- *NPO 55:* 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.

### 5.1.3. **National Development Plan, 2021-2030:**

The National Development Plan, 2021-2030 (NDP) sets out the Government's investment strategy and budget up to 2030. The NDP commits to increasing the share of renewable energy up to 80% by 2030 and acknowledges that this will require world-leading levels of wind and solar electricity penetration onto the national grid.

### 5.1.4. **Policy Statement on Security of Electricity Supply, November 2021 (Government of Ireland):**

The Policy Statement notes that electricity is vital for the proper functioning of society and the economy and states that in order to contribute to the achievement of the targeted reductions in greenhouse gas emissions, the Government has committed that up to 80% of electricity consumption will come from renewable sources by 2030 on a pathway to net zero emissions. It emphasises that the continued security of electricity supply is a priority at national level and within the overarching EU policy framework in which the electricity market operates. The challenges to ensuring security of electricity supply are stated to include:

- ensuring adequate electricity generation capacity, storage, grid infrastructure, interconnection and system services are put in place to meet demand – including at periods of peak demand.

Within the Policy Statement the Government recognises *inter alia* that ensuring security of electricity supply continues to be a national priority as the electricity system decarbonises towards net zero emissions and that there is a need for very significant investment in additional flexible conventional electricity generation, electricity grid infrastructure, interconnection, and storage in order to ensure security of electricity supply.

### 5.1.5. **Energy Security in Ireland to 2030: Energy Security Package, November, 2023:**

This document outlines a new strategy to ensure energy security in Ireland for the decade, while ensuring a sustainable transition to a carbon neutral energy system by 2030. It has been published as part of an Energy Security Package, containing a range of supplementary analyses, consultations, and reviews, which have informed recommendations and actions related to energy security. The report sets out that



Ireland's future energy will be secure by moving from an oil- and gas-based energy system to an electricity-led system, maximising our renewable energy potential, flexibility and being integrated into Europe's energy systems. It further states that energy security must be prioritised, monitored, and reviewed regularly, and includes a range of measures to implement such an approach in the short and medium term by prioritising:

- Reduced and Responsive Demand
- A Renewables-Led System
- More Resilient Systems
- Robust Risk Governance

Under each of these four areas of actions, the report sets out a range of mitigation measures, including the need for additional capacity of indigenous renewable energy, but also energy imports, energy storage, fuel diversification, demand side response, and renewable gases.

#### 5.1.6. **Climate Action Plan, 2023 – Changing Ireland for the Better:**

This plan is the second annual update to Ireland's Climate Action Plan, 2019 and is the first such plan to be prepared under the Climate Action and Low Carbon Development (Amendment) Act, 2021 as well as since the introduction of economy-wide carbon budgets and sectoral emissions ceilings in 2022. It 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. Moreover, it supports the accelerated delivery of renewable electricity generation to the national grid with a target of achieving 80% of electricity demand being met from renewable energy by 2030. This includes a target of providing up to 5GW of solar energy by 2025 with a longer-term target of 8GW by 2030. The Plan proceeds to list the actions needed to deliver on climate targets and sets emission ceilings reductions for each sector of the economy. These include an increased reliance on renewable energy sources with the following actions of particular relevance to the proposed development:

- EL/23/1: Establish a taskforce to accelerate renewables.
- EL/23/2: Publish the Renewable Electricity Spatial Policy Framework.

- EL/23/3: Publish a roadmap for the development and implementation of Regional Renewable Electricity Strategies.
- EL/23/5: Complete analysis to update Shaping Our Electricity Future to accommodate 80% renewables and align with carbon budgets and sectoral emissions ceilings for electricity.
- EL/23/6: Ensure electricity generation grid connection policies and regular rounds of connection offers which facilitate timely connecting of renewables, provides a locational signal and supports flexible technologies.

## 5.2. Regional Policy

### 5.2.1. Regional Economic and Spatial Strategy for the Southern Region, 2020-2032:

The RSES provides a long-term, strategic development framework for the future physical, economic and social development of the Southern Region and includes Metropolitan Area Strategic Plans (MASPs) to guide the future development of the Region's three main cities and metropolitan areas – Cork, Limerick-Shannon and Waterford. The strategy updates the South East Regional Authority Regional Planning Guidelines, 2010-2022 and supports the transition towards a low carbon economy and climate resilient society across all sectors. Relevant Policy Objectives include:

- *RPO 87: Low Carbon Energy Future:*

The RSES is committed to the implementation of the Government's policy under Ireland's Transition to a Low Carbon Energy Future 2015-30 and Climate Action Plan 2019. It is an objective to promote change across business, public and residential sectors to achieve reduced GHG emissions in accordance with current and future national targets, improve energy efficiency and increase the use of renewable energy sources across the key sectors of electricity supply, heating, transport and agriculture.

- *RPO 95: Sustainable Renewable Energy Generation:*

It is an objective to support implementation of the National Renewable Energy Action Plan (NREAP), and the Offshore Renewable Energy Plan and the implementation of mitigation measures outlined in their respective SEA and

AA and leverage the Region as a leader and innovator in sustainable renewable energy generation.

- *RPO219: New Energy Infrastructure:*

It is an objective to support the sustainable reinforcement and provision of new energy infrastructure by infrastructure providers (subject to appropriate environmental assessment and the planning process) to ensure the energy needs of future population and economic expansion within designated growth areas and across the Region can be delivered in a sustainable and timely manner and that capacity is available at local and regional scale to meet future needs.

- *RPO221: Renewable Energy Generation and Transmission Network:*

- a) Local Authority City and County Development Plans shall support the sustainable development of renewable energy generation and demand centres such as data centres which can be serviced with a renewable energy source (subject to appropriate environmental assessment and the planning process) to spatially suitable locations to ensure efficient use of the existing transmission network;
- b) The RSES supports strengthened and sustainable local/community renewable energy networks, micro renewable generation, climate smart countryside projects and connections from such initiatives to the grid. The potential for sustainable local/community energy projects and micro generation to both mitigate climate change and to reduce fuel poverty is also supported;
- c) The RSES supports the Southern Region as a Carbon Neutral Energy Region.

- *RPO 222: Electricity Infrastructure:*

It is an objective to support the development of a safe, secure and reliable supply of electricity and to support and facilitate the development of enhanced electricity networks and facilitate new transmission infrastructure projects that might be brought forward in the lifetime of this plan under EirGrid's (2017) Grid Development Strategy (subject to appropriate environmental assessment and the planning process) to serve the existing and future needs of the

Region and strengthen all-island energy infrastructure and interconnection capacity.

### 5.3. Development Plan

#### 5.3.1. Wexford County Development Plan, 2022-2028:

*Vol. 1:*

*Chapter 2: Climate Action:*

*Section 2.4: Climate Action Spatial Planning Strategy:*

*Section 2.4.2: Mitigation and Spatial Planning:*

This is focused on reducing ghg emissions, using sustainable renewable energy sources and moving to a low carbon economy. In this regard, the Plan includes objectives to:

- Facilitate the transition to a low carbon economy which is focused on clean, low carbon technologies and promotes the development of sustainable renewable energy sources such as wind, tidal and solar energy as a means of reducing dependencies on fossil fuels, in particular, community owned and locally produced energy generation projects.

*Climate Action Strategic Objectives:*

**CA01:** To ensure that the spatial planning of County Wexford provides for a county that is resilient to climate change, encourages development along existing transport corridors, enables the decarbonisation of the county's economy and reduces the county's carbon footprint in support of national targets for climate mitigation and adaptation objectives as well as targets for greenhouse gas emissions reductions.

**CA04:** To implement the Energy Strategy contained in Volume 10 of the Wexford County Development Plan to facilitate the transition to a low carbon county.

*Chapter 11: Landscape and Green Infrastructure:*

*Section 11.6: Landscape Character Assessment:*

*Landscape Character Units: 2. Lowlands:*

The Lowland LCU area generally comprises gently undulating lands and relates to extensive areas of the county. This landscape has characteristics which provide it with a higher capacity to absorb development without causing significant visual intrusion. The landscape is characterised by higher population levels and more intensive agriculture. It is punctuated by many of the county's hills and ridges, the more sensitive of which have been defined as Distinctive Landscapes. Where the lowlands meet the Distinctive lands or Uplands there are transitional areas which are more sensitive to development.

#### Section 11.8: *Landscape Sensitivity:*

##### *Table 11.1: 'Lowlands': 'Low' – 'Moderate' Landscape Sensitivity Rating*

Low sensitivity landscapes are more robust landscapes which are tolerant to change and have the ability to accommodate development without significant adverse impacts on the character of the landscape. These landscapes comprise the majority of the Lowlands.

The upper reaches of the lowlands have a Moderate sensitivity. Moderate sensitivity landscapes can accommodate development but with limitations in scale and magnitude. These transitional areas of the lowlands are where the lowlands meet the other LCU.

#### Section 11.10: *Assessing Visual Impacts*

##### *Landscapes Objectives:*

- L01:* To have regard to the Landscape Character Units and their assigned Landscape Sensitivity, the Draft Landscape and Landscape Assessment-Guidelines for Planning Authorities (2000) and any updated versions of these guidelines published during the lifetime of the Plan, and any National Landscape Character Assessment prepared when assessing planning applications or when carrying out local authority own development.
- L04:* To require all developments to be appropriately sited, designed and landscaped having regard to their setting in the landscape, ensure that any potential adverse visual impacts are minimised and that natural features and characteristics of the site are retained.

*L06:* To ensure that developments are not unduly visually obtrusive in the landscape, in particular, in or adjacent to the Upland, River Valley, Coastal or Distinctive Landscape Character Units.

*L11:* To protect views worthy of protection, including views to and from the sea, rivers, landscape features, mountains, tourism sites and landmark structures such as bridges and urban settlements from inappropriate development that by virtue of design, scale, character or cumulative impact would block or detract from such views.

*L16:* To require Landscape and Visual Impact Assessment Reports to be submitted for developments which may have a significant negative impact on the landscape.

*Vol. 2: Development Management Manual:*

*Section 2: Common Principles for All Developments*

*Section 7: Heritage and Landscape:*

*Section 7.4: Landscape and Biodiversity:*

*Section 7.4.3. Landscape and Visual Impact Assessment*

*Vol. 7: Landscape Character Assessment:*

(The proposed development site is located within the 'Lowlands' Landscape Character Unit as shown on Map No. 7.1).

*Table No. 7-1: Landscape Character Units: 'Lowlands': Description:*

The Lowlands LCU is generally made up of gently undulating lands and relates to extensive areas of the county. The slopes and topography in this unit are shallower. There are generally higher levels of population and more intensive agriculture. Agricultural lands tend to be characterised by views across larger fields as a result of the generally low well-trimmed hedges. This landscape unit hosts the principle towns (except where transected by River Valleys) and major infrastructure such as the main roads and railways.

There are a number of prominent hills within the Lowlands LCU which provide more enclosure and 'punctuation' within the overall landscape.

The predominant agricultural use of most of the Lowlands LCU is expected to continue due, for the most part, to the high quality and fertility of the soils. Intensification of agricultural practices and expansion of urban settlements will be factors of change in this landscape.

The Lowlands LCU generally has characteristics which have a higher capacity to absorb development without it causing significant visual intrusion although, care still needs to be taken on a site by site basis, particularly to minimise the risks of developments being visually intrusive.

To the north and to the south-west of the lowlands there are transitional areas where this landscape unit meets the Uplands LCU and the higher elevations adjacent to the Barrow River Valley. To the north much of the mountain and hill peaks of the Blackstairs and Uplands LCU are inter-visible. To the south west this land rises towards some notable peaks in the New Ross district. These parts of the lowlands have lower population densities and are more sensitive than the rest of the lowlands. They are moderately sensitive to development with capacity to accommodate development subject to appropriate siting and design and consideration of cumulative impacts.

*Table 7-3: 'Lowlands': 'Low' – 'Moderate' Landscape Sensitivity Rating*

*Vol. 10: Energy Strategy:*

*Section 1.3: Strategic Aims of the Energy Strategy:*

- To support the attainment of national renewable energy and carbon reduction targets and to position the County as a leader in renewable energy generation and energy efficiency.
- To identify opportunities for various renewable energy technologies and resources and identify broad areas suitable for their development in full compliance with the requirements of all environmental legislation including the requirements of the Strategic Environmental Assessment Directive, the Habitats Directive and the Water Framework Directive.
- To maximise the opportunities for renewable energy development whilst safeguarding the environment and existing residential amenities.
- To provide guidance on energy efficiency and conservation.

- To provide a clear development management framework.

### Section 3.3: *Renewable Energy Targets*

#### *Chapter 4: Solar Energy:*

#### Section 4.2: *Solar PV Ground Mounted:*

##### Section 4.2.2: *Methodology (incl):*

##### *Landscape and Visual Impacts:*

Ground mounted solar PV developments (solar farms) will not be permitted in the Uplands, River Valleys and Coastal landscapes or in the Distinctive Landscapes. Applications for solar PV development will be considered in the Lowlands area subject to a case-by-case assessment, including an assessment of cumulative impacts on the landscape and having regard to the targets set for the plan period, the constraints and facilitators, and the development management standards outlined below.

##### *Areas Open for Consideration:*

Following an analysis of the above criteria, Map 6 shows the area where solar farms will be open for consideration subject to the targets set for the plan period, the constraints and facilitators and the development management standards outlined below.

(The proposed development site is located in an area shown as ‘*Open for Consideration*’ for the development of solar farms on Map No. 6: ‘*Areas Open for Consideration for Solar Farms*’).

##### Section 4.2.3: *Other Constraints and Facilitators:*

##### *Major Roads and Railways:*

Solar farms have the potential to cause significant impacts on road and rail users in terms of visual impacts and glint and glare. A specified set back distance is not recommended, however proposals will be assessed on a case by case basis having regard to siting, layout and design, the surrounding topography and the potential impacts on road and rail users. A glint and glare assessment will be required to identify the impacts on road and rail users.

##### Section 4.2.4: *Objectives:*



*ES01:* To facilitate the development of solar PV developments in the area open for consideration as shown on Map 6 subject to the renewable energy target set for the County, the proper planning and sustainable development of the area and the Development Management standards set out below.

*ES02:* To consider applications for community-based solar developments of an appropriate scale subject to normal planning and environmental criteria. It is the policy of the Council to support and facilitate renewable energy proposals that bring about a direct socio-economic benefit to the local community. The Council will engage with local communities and stakeholders in energy and encourage developers to work with local communities to identify how they can invest in/gain from significant renewable energy development.\*

\*In order to meet the 2030 renewable energy targets and the required level of emissions reduction, the Climate Action Plan 2019 includes a target to meet 15% of electricity demand by renewable sources contracted under Corporate Power Purchase Agreements (PPAs). Corporate PPAs allow corporates to lock in a fixed energy price, eliminating exposure to volatile energy prices.

The Climate Action Plan 2019 also requires closer working with community and enterprise by Obligated Energy Suppliers to ensure wider community gain. The first RESS auction, which is expected to open for applications by mid 2020, will include a suite of measures for community participation.

#### *Section 4.2.5: Development Management Standards for Solar Farms*

### **5.4. Natural Heritage Designations**

- 5.4.1. The following natural heritage designations are located in the general vicinity of the proposed development site:
- The Slaney River Valley Special Area of Conservation (Site Code: 000781), approximately 1.4km northwest of the site.

- The Clone Fox Covert Proposed Natural Heritage Area (Site Code: 000755), approximately 1.4km northwest of the site.
- The Slaney River Valley Proposed Natural Heritage Area (Site Code: 000781), approximately 3.2km southwest of the site.
- The Ballynabarney Wood Proposed Natural Heritage Area (Site Code: 000746), approximately 4.5km southwest of the site.
- The Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076), approximately 8.3km southwest of the site.
- The Killoughrum Forest Proposed Natural Heritage Area (Site Code: 000765), approximately 11.2km west-southwest of the site.
- The Leskinfere Church, Clogh Proposed Natural Heritage Area (Site Code: 000702), approximately 14km northeast of the site.
- The Ballyroe Fen and Lake Proposed Natural Heritage Area (Site Code: 000747), approximately 14.6km southeast of the site.
- The Bunclody Slate Quarries Proposed Natural Heritage Area (Site Code: 000750), approximately 14.7km northwest of the site.

## 5.5. EIA Screening

5.5.1. Solar energy development is not listed as a class of development for the purposes of EIA under Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 (as amended). In this regard, a requirement for preliminary examination or EIA does not arise.

5.5.2. Under the Environmental Impact Assessment (Agriculture) Regulations, 2011 issued by the Department of Agriculture, Food and the Marine, the rural restructuring of farmland requires screening for EIA. In this regard, I note the more recent amending Regulation S.I. 383 of 2023, Planning and Development (Amendment) (No. 2) Regulations 2023, which amends Class 1 of Part 2 of Schedule 5, by inserting the following:

*(a) Projects for the restructuring of rural land holdings, undertaken as part of a wider proposed development, and not as an agricultural activity that must*

*comply with the European Communities (Environmental Impact Assessment)(Agriculture) Regulations 2011, where the length of field boundary to be removed is above 4 kilometres, or where re-contouring is above 5 hectares, or where the area of lands to be restructured by removal of field boundaries is above 50 hectares.*

5.5.3. I note that these thresholds reflect those set out in Schedule 1, Part B of the 2011 EIA (Agriculture) Regulations. Furthermore, Part A of Schedule 1 of the 2011 Regulations sets out the following thresholds for screening for EIA:

<b>Restructuring of rural land holdings</b>	<b>Screening Required</b>
Length of field boundary to be removed	Above 500m
Re-contouring (within farm-holding)	Above 2 hectares
Area of lands to be restructured by removal of field boundaries	Above 5 hectares

5.5.4. The proposed development involves the removal of a limited extent of hedgerow, primarily between Land Parcels 4 & 6 and 7 & 9 (as identified in Figure 3: ‘*Field Numbers*’) and comprising less than 500m. This is significantly below the threshold of 4km for EIA reinserted by the 2023 amending regulations and is also below the screening threshold set out in the 2011 (Agricultural) regulations. Such removal is associated with access requirements and does not result in the amalgamation or enlargement of existing fields. Significant effects on biodiversity are not likely as a result of such works.

5.5.5. The development does not involve any significant excavation or the recontouring of the lands by, for example, the levelling off of hills or by the infilling of hollows (by removing or shifting earth or rocks), or other use or drainage works. Although the proposed transformer containers will be sited on areas of hardstanding which may require some localised levelling and foundation works, such works are not significant in nature and would not constitute recontouring of the lands.

5.5.6. Having regard to the above, I am satisfied that the proposed solar farm is not of a class that requires EIA or screening for EIA, while the associated grid connection is also not of a class of development listed under Parts 1 or 2 of Schedule 5. The

development would, however, constitute sub-threshold development for rural restructuring (Class 1(a), Part 2 Schedule 5).

- 5.5.7. I refer to Form No. 1 Preliminary Examination appended to this report and conclude that there is no real likelihood of significant effects on the environment and that EIA is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The Glint and Glare Assessment (GGA) submitted with the application considers the worst-case potential impacts on ground-based receptors utilising bare-earth simulations. It identified a total of 49 No. road receptors within the study area, however, 15 No. of these were dismissed as they are located within 'no reflection zones' and therefore will not be impacted by the proposed development. The GGA thus concluded:

*“Solar reflections are possible at 30 of the 34 road receptors assessed within the 1km study area. Initial impacts were **High** at 19 road receptors, **Low** at 11 road receptors and **None** at four road receptors. Upon reviewing the actual visibility of the road receptors, glint and glare impacts remain **High** at four receptors and reduce to **None** at all remaining receptors. Once mitigation measures were considered, impacts reduce to **None** at all receptors”.*

Mitigation is required to ensure the 'High' impact views from road receptors 21, 22, 23 & 24 are screened. This includes the planting / infilling of native hedgerows along the western boundary of Field Nos. 1 & 11.

- In reference to the comments made by the Senior Executive Planner and appended to the report of the case planner, it is clear from Image No. 2 of the grounds of appeal that Field Nos. 10, 11 & 12 do not border the M11 Motorway and are instead bounded by an unnamed local road to the west.
- A total of 14 No. road receptor points along the M11 were considered in the assessment, although 4 No. of these were dismissed as they lay within the 'No Reflection Zone'. The remaining 10 No. points were subsequently

assessed in detail, all of which had ‘None’ impacts with actual visibility with no mitigation. In any event, mitigatory planting is proposed along the eastern boundary of Field Nos. 6, 7 & 8 in order to further screen any views experienced by road users travelling towards the proposed development.

- A robust Glint and Glare Assessment has been completed and sufficient information provided to confirm that there will be no significant impacts on any road users along the M11 Motorway.
- The Construction Traffic Management Plan outlines the overall framework for managing the movement of construction & delivery traffic to and from the proposed development as well as the vehicle types involved. Consideration has also been given to the traffic impact arising during the operational and decommissioning phases of the proposed development.
- While increased traffic volumes will arise during the construction phase, the overall volumes of traffic generated by the proposed development in combination with adjacent development (PA Ref. No. 20180055) during construction will be low (with the daily impact also likely to be low).
- The proposed development will be accessed from Local Road No. L1022 via the entrance points already approved under PA Ref. No. 20180055 as part of the neighbouring Tomsallagh Solar Farm. The accompanying swept-path analysis also confirms that larger vehicles can enter and exit via these access points. The necessary visibility splays are also achievable with minimal works.
- The Construction Traffic Management Plan conforms to the policies and objectives of the Wexford County Development Plan, 2022-2028 and also accords with the Design Manual for Roads and Bridges (NRA).
- In response to the concerns raised by Transport Infrastructure Ireland, an additional Traffic & Transport Assessment and Road Safety Audit were commissioned by the applicant as follows:

*Traffic and Transport Assessment:*

- The Traffic & Transportation Assessment (prepared by Road Safety Matters and dated March, 2023) included in Appendix ‘B’ of the grounds of appeal accords with the ‘*Traffic and Transport Assessment Guidelines*’

issued by Transport Infrastructure Ireland (May, 2014). It has been informed by a short-term traffic survey of the local road at the existing well established access junction and confirmation of the anticipated traffic levels for the proposed solar farm expansion. It addresses the adequacy of the existing national road network to accommodate the worst-case vehicular demands arising during the construction stage and has concluded that there will be a negligible traffic impact associated with the development proposal. The cumulative impact of the minor levels of traffic consequent on the proposed development will also have a negligible impact on the access junctions on the local road, and the road network surrounding the site will continue to operate in an efficient manner well below capacity. The TTA concludes as follows:

*“Based on the low levels of anticipated traffic which are well below the TII threshold levels normally warranting a TTA, it is not expected that the projected development generated traffic flows will have any impact on the capacity of the link roads or neighbouring junctions on the anticipated haul routes to and from the site, including the junctions on the National Road Network”.*

*Road Safety Audit:*

- The Road Safety Audit included in Appendix ‘B’ involved an assessment of safety at each of the proposed access points to the solar farm as presented on the preliminary design drawings. The scope of the audit includes an examination of the site access junction proposal and the immediate tie-ins to the adjacent local road (L1022).
- The applicant concurs with the recommendations of the RSA and will apply these during a Stage 2 Audit post-construction.
- On the basis of the additional information included in the aforementioned TTA and RSA, the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site and, therefore, will not be contrary to the proper planning and development of the area.

- The second reason for refusal would appear to derive from the submission made by Inland Fisheries Ireland, however, it should be noted that this was not intended to be read as an objection. Indeed, following consultation (please refer to Appendix 'E' of the grounds of appeal), the IFI has indicated that it was of the opinion that the information required would have been sought by way of a request for further information (although this was not the case).
- The submission made by IFI states the following:

*“Our knowledge of this site is that some lands currently subject to commercial forestry are very wet in nature and that the potential for the release of suspended solids to surface waters from works on these wetter areas have significant potential to generate suspended solids pollution of the small streams draining the site and the Tinnacross River downstream”.*

In response, it is submitted that during the habitats survey undertaken on 10<sup>th</sup> & 11<sup>th</sup> October, 2022, the commercial forestry lands in question were not noticeably wet in nature. While it is acknowledged that this may be a seasonal feature of the site, the forestry drainage ditches in that area were dry and contained a notable amount of vegetation. This is not suggestive of the volume of water that would be expected from a wet woodland for a substantial period of time within any given year.

- Due to the dry nature of the drainage ditches at the time of the survey work, these were not intended to be included within measures outlined for watercourses, however, following consultations with IFI, it is acknowledged that in the event there is sufficient water in the ditches to carry pollutants then potential impacts arise for downstream habitats. Therefore, the updated Natura Impact Statement attached as Appendix 'C' includes measures detailed in the 'Standards for Felling and Restoration (DAFM, 2019)'.

In addition, given the qualifying species of the SAC, it is acknowledged that hydrologically linked waterways may have the potential to be utilised by species from the SAC and, therefore, these waterways should be considered Salmonid (while noting that the proposed development does not include for any culverting of those waterways).

- Section 7.16 of the updated NIS outlines the following additional measures for the control of silt and sediment from within the forestry areas:
  - Prior to the commencement of operations, install silt traps within existing forest drains that connect with aquatic zones, either directly or indirectly through other watercourses.
  - Silt traps should be staggered along the length of the drain, and not only at the lower reaches towards its outflow.
  - Silt trap design can vary, from depressions added to the drain, to log sections laid lengthways into the drain, to the use of geotextile barriers.
  - Apply silt fences where necessary, to block pathways for silt in areas where overland flow is possible.
  - Once silt traps and silt fences become functional, check regularly and maintain as necessary, in order to ensure continued effectiveness throughout operations.

The location of the silt traps will be determined by a suitably qualified professional prior to any tree felling and following site mapping of all forestry drains.

Other relevant measures outlined in the 'Standards for Felling & Restoration' will be followed:

- When fallen trees with exposed root plates are being cut during tree felling, the exposed roof plates can be manoeuvred back into their original positions, where appropriate and safe to do so, in order to eliminate possible sources of silt.
- All felling must cease immediately during and after periods of heavy rainfall.

With the implementation of specific mitigation measures for the removal of trees (alongside the existing measures outlined in Appendix 'C'), it is not considered that the proposed development will result in any significant effects on the Slaney River Valley SAC.

- With regard to the third reason for refusal:



- Land Parcel 10 comprises an area of non-native plantation forestry that had been felled under licence at the time of the habitat survey. This habitat was classified as '*Recently Felled Woodland (WS5)*' in the Ecological Appraisal and is not rich in local biodiversity as it predominantly comprises bare ground.
- Land Parcel 7 comprises patches of immature coniferous plantation forestry (Norway Spruce). The removal of this habitat type is addressed in the Ecological Appraisal and species-specific mitigation measures have been outlined in the report to ensure the protection of local biodiversity.
- Conifer plantation is not classified as a 'high value' habitat while Norway Spruce is not native to Ireland. In the absence of the proposed development, these trees would be removed as part of the ongoing forestry work. Furthermore, given the temporary nature of this habitat it can be assumed that it could not be relied upon by local species in the long term. Additionally, in accordance with the Forestry Act, 2014, the removal of 25 No. acres of forestry, as outlined within the proposed development will be replanted off-site to ensure that there is no net loss of forestry stock (the location of this mitigatory replanting in the local area will be agreed in consultation with ecologists and landscape architects).
- The proposed solar farm will provide ecological enhancements through the creation of native habitats to the benefit of notable and protected species in the local area.
- The Ecological Appraisal provided with the application outlines the following mitigation measures:
  - An Ecological Clerk of Works will supervise the removal of woodland habitats.
  - Pre-commencement badger and otter surveys.
  - Pre-commencement breeding bird surveys should be carried out on any trees and hedgerows which may be removed during the breeding season (March to August).

- Security fencing to have mammal gates or a 10cm gap at the base to allow for the free movement of badgers / otter / other mammals through the site.
- All excavations should be securely covered, or a suitable means of escape provided at the end of each working day.
- If any mature tree ultimately requires trimming or removal at any time of the year, it will need to be surveyed for Potential (Bat) Roost Features.
- The applicant is amenable to a condition requiring the proposed development to only be constructed after the woodland area within its footprint has been felled under licence.
- On the basis of the submitted information:
  - The proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network.
  - The proposal will not have a significant effect on Natura 2000 sites, either individually or in combination with other plans or projects. The updated NIS includes more specific mitigation measures for the removal of trees in addition to those previously outlined. The proposed development is unlikely to result in any significant effects on the qualifying interests of the Slaney River Valley SAC.
  - In accordance with Development Plan policy, the proposed development will not negatively impact on existing habitats or local biodiversity.
- The environmental assessments submitted in support of the application have concluded that the proposed development will not result in any unacceptable impact and that any limited harm arising will be considerably offset by the benefits associated with the scale of renewable energy proposed.
- It is reiterated that current national policy provisions advocate support for renewable energy developments, subject to development management and environmental considerations. The proposed development strikes an acceptable balance between renewable energy production and all other relevant planning and environmental considerations.

## 6.2. Planning Authority Response

None.

## 6.3. Observations

None.

## 6.4. Further Responses

None.

## 7.0 Assessment

7.1. From my reading of the file, inspection of the site, and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Impact on road safety / traffic considerations
- Impact on habitats & local biodiversity
- Appropriate assessment

These are assessed as follows:

### 7.2. The Principle of the Proposed Development:

7.2.1. Given the nature and stated purpose of the proposed development, it is apparent that it has a role to play in realising Ireland's international, European and national commitments as regards the provision of energy from renewable sources and achieving a reduction in greenhouse gas emissions. In this regard, there are a multitude of policy provisions at national, regional and local level which all support the development of renewable energy projects, including solar farms, with a view to transitioning to a low carbon and climate resilient society. For example, the *National Planning Framework: 'Project Ireland 2040'* aims to reduce the national carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation as well as targets for greenhouse gas emissions reductions. More specifically, National Strategic Outcome 8 sets the

goal of transitioning to a low carbon and climate resilient society and recognises that the diversification of energy production systems away from fossil fuels and towards a more renewables focused energy generation system (utilising sources including, solar) will be necessary as supported by National Policy Objective 55 which seeks to '*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*'.

- 7.2.2. The current '*Programme for Government - Our Shared Future*' builds on the policy provisions of the NPF and commits to an average 7% reduction in greenhouse gas (GHG) emissions per annum over the 2021-2030 period (a 51% reduction over the decade) and the achievement of net zero emissions by 2050. It also emphasises that the reliable supply of safe, secure and clean energy will be essential in order to deliver a phase-out of fossil fuels and aims to take the necessary action to deliver at least 70% of renewable electricity by 2030.
- 7.2.3. More recent policy developments in support of the submitted proposal include the *Climate Action Plan, 2023 – 'Changing Ireland for the Better'*, which aims to accelerate the delivery of renewable electricity generation to the national grid with a target of achieving 80% of electricity demand being met from renewable energy by 2030 (including a target of providing up to 5GW of solar energy by 2025 with a longer-term target of 8GW by 2030), and the '*Energy Security in Ireland to 2030: Energy Security Package*' published in November, 2023 which outlines a new strategy to ensure energy security in Ireland while achieving a sustainable transition to a carbon neutral energy system by 2050, a key component of which will be maximising the country's renewable energy potential by prioritising a 'Renewables-Led System'.
- 7.2.4. In a local context, the Wexford County Development Plan, 2022-2028 reiterates the need to consider the implications for climate change in the assessment of development proposals. Moreover, it aims to maximise Wexford's renewable energy potential and its transition to becoming a more energy secure, low carbon county in line with national energy targets whilst balancing the need to protect the environmental, social and heritage assets of the county. With respect to the subject proposal, I would refer the Board to Chapter 4: '*Solar Energy*' of Volume 10: '*Energy Strategy*' of the Development Plan and, more specifically, to Map No. 6 '*Areas Open*

*for Consideration for Solar Farms*’ wherein the proposed development site is shown to be located in an area ‘*Open for Consideration*’ for the development of solar farms, subject to the targets set for the plan period, and the constraints and facilitators and the development management standards set out elsewhere in the Energy Strategy. Accordingly, the broader principle of siting a solar energy development such as that proposed at the location selected is ‘open for consideration’ (which is of particular note given that ground-mounted solar PV developments are not generally permissible in the remainder of the county for a variety of reasons e.g. locations within settlement boundaries, the Uplands, River Valleys and Coastal landscapes, or in the Distinctive Landscapes).

- 7.2.5. Further credence is lent to the subject proposal by the fact that it involves the extension / expansion of the Tomsallagh solar energy development already approved on the neighbouring lands under PA Ref. No. 20180055 / ABP Ref. No. ABP-301329-18. Indeed, it will utilise the same access and servicing arrangements as the permitted scheme.
- 7.2.6. Therefore, on the basis of the available information, I am satisfied that the proposed development is consistent with Ireland’s international, European and national commitments as regards the reduction of greenhouse gas emissions and the provision of energy from renewable sources, however, while I am amenable to the principle of the proposed development, any such proposals should be assessed on their individual merits and subject to normal planning considerations.

### **7.3. Impact on Road Safety / Traffic Considerations:**

- 7.3.1. In its decision to refuse permission, the Planning Authority has asserted that the subject application contains insufficient data to demonstrate that the proposed development would not have a detrimental impact on the capacity, safety or operational efficiency of the national road network. It also states that the proposal would be at variance with official policy in relation to the control of development on / affecting national roads (as set out in the ‘*Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012*’) as the proposed development 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.

- 7.3.2. Regrettably, the refusal of permission does not elaborate on the alleged deficiencies in the submitted information or how these could impact on the capacity, safety or operational efficiency of the road network. Similarly, the analysis by the case planner fails to support the conclusion that the proposed development would have an adverse impact on the operation and management of the M11 national road. However, the commentary by the Senior Executive Planner serves to clarify that the rationale for the decision to refuse permission on traffic safety grounds derives from the submissions received from Transport Infrastructure Ireland (TII) and the Local Authority Roads Department. More specifically, it references the concerns raised as regards of the purported lack of information regarding the potential for glint & glare effects from the proposed development to adversely impact on the operational safety and efficiency of the M11 Motorway.
- 7.3.3. In the submission received from Transport Infrastructure Ireland, it is acknowledged that the planning application was accompanied by a Glint & Glare Assessment (GAA) which analysed the impact of the proposed development on surrounding road receptors, including the M11 Motorway. However, given that the section of the motorway overlooking the development site is carried on an elevated embankment, it has been submitted that insufficient evidence has been provided for the individual road receptor points assessed to determine that the proposed development would not have a glint or glare impact on that roadway. It is this purported lack of information, when taken in combination with the need to provide sufficient evidence to ensure that safety on the roadway will be maintained and that any mitigation required will be sufficient to safeguard the significant levels of investment in the national road network, which has informed TII's opinion that it has not been adequately demonstrated that the proposal will not detrimentally impact on the capacity, safety or operational efficiency of the M11 Motorway.
- 7.3.4. Notably, the report prepared by the Roads Department of the Local Authority (*Roads Inspection Report: Gorey – Kilmuckridge Municipal District*) concurs with the concerns raised by TII as regards the potential for the proposed development to have an adverse glint and glare impact on the motorway.
- 7.3.5. In assessing the potential for glint and glare attributable to the proposed development and any associated impact on road safety etc., it should be noted in the first instance that the subject proposal does not incorporate tracking panels with the

arrays to be mounted in a fixed position along an east-west alignment and orientated to face due south. Furthermore, solar photovoltaic panels, given the very nature of their design, need to absorb (as opposed to reflect) solar radiation and are therefore finished in an anti-reflective coating so as to absorb as much light as possible. In this regard, Paragraph 7.24 of the '*Glint and Glare Assessment*' (GGA) submitted with the application details that several studies have shown the levels of reflectance from the crystalline photovoltaic panels proposed to be much lower than standard glass, steel, snow and white concrete by comparison. It states that similar levels of reflectance can be found in rural environments from shed roofs, greenhouses and the lines of plastic mulch used in crop production. In support of the foregoing, Appendix '7G' of the GAA includes a '*Solar Module Glare and Reflectance Technical Memo*' prepared in respect of 'SunPower' PV modules wherein it is detailed that the reflected energy percentage of 'Solar Glass' is far below that of standard glass and more on a par with smooth water. In addition, the material reflectivity of solar glass is stated to be noticeably less than standard glass, plexiglass, plastic, steel and snow. It is further stated that the solar glass in question (SunPower solar modules) uses "*high-transmission, low iron glass*" which absorbs more light, producing smaller amounts of glare and reflectance than normal glass, while its incorporation of a '*stippling*' effect (whereby the surface of the glass is textured with small types of indentations) allows for more light energy to be channelled / transmitted through the glass while diffusing the reflected light energy.

7.3.6. (It is of relevance to note that Appendix 'B' of the '*Glint and Glare Study*' submitted in support of the neighbouring solar farm approved under PA Ref. No. 20180055 / ABP Ref. No. ABP-301329-18 also referred to a number of solar reflection studies which detailed that solar panels have previously been found to reflect approximately 5% of light (the same as water) whereas surfaces such as snow and white concrete reflect a considerably higher percentage).

7.3.7. The '*Glint and Glare Assessment*' prepared by Neo Environmental (please refer to Technical Appendix 7 of the submitted particulars) aims to assess the 'worst-case' scenario potential impacts of the proposed development on ground-based receptors such as roads, rail, and residential properties as well as aviation assets utilising 'bare earth' simulations which do not take intervening vegetation or other obstacles into account. For the assessment of ground-based receptors a 1km radius study area

was deemed appropriate as this was thought to contain a good spread of residential and road receptors in most directions from the proposed development. In this regard, it should be noted that the greater the distance between a receptor and a solar farm, the less chance it has of being affected by glint or glare due to the scattering of the reflected beam and atmospheric attenuation, in addition to the likely obstruction from ground sources such as any intervening vegetation or buildings. In instances where there are a number of residential units in close proximity, a representative dwelling or dwellings has / have been chosen for assessment as the impacts will not vary to any significant degree between the individual properties. With respect to aviation assets, it has been submitted that glint is only considered to be an issue for aviation safety where the solar farm lies in close proximity to runways, particularly when an aircraft is descending to land, and that enroute activities are not of concern as flights will most likely be at a higher altitude than the solar reflection. The assessment subsequently details the methodology employed in determining the degree of reflection theoretically possible at identified receptors (on the assumption of 'bare ground') and the results of geometric reflection calculations undertaken as part of the prediction modelling (*N.B.* Reflection is considered to include both 'glint' and 'glare').

- 7.3.8. A total of 62 No. residential receptors, including two residential areas, and 49 No. road receptors have been identified within a 1km radius of the proposal development (there are no aerodromes within 30km of the proposed development and thus the potential for impacts on aviation assets is not considered further. Similarly, as there are no railway lines within the 1km study area, no impacts are anticipated on railway infrastructure). However, not all of these have the potential to be impacted by solar reflection given the need to account for 'non-reflection zones' as set out in Paras. 7.87 to 7.89 of the GAA and detailed in Figure Nos. 7.1 & 7.2 of the assessment.
- 7.3.9. There are 21 No. residential receptors (Nos. 42-62) and one residential area within the predicted no-reflection zones as identified in Table 7-1 and Figure 7.1 of the GAA. Similarly, there are 15 No. road receptors (Nos. 35-49) within the no-reflection zones as per Table 7-2 and Figure 7.2. Accordingly, these receptors do not warrant further investigation as part of the glint and glare assessment.
- 7.3.10. Having identified those residential and road receptors with the potential to be impacted by the proposed development, geometric analysis comparing the azimuth and horizontal angle of the receptors from the proposed development and the solar



reflection was conducted. Although this modelling has assumed a 'bare ground' scenario with no account having been taken of any obstruction offered by intervening vegetation or buildings, cognisance has been taken of such in the analysis set out later in the GAA.

- 7.3.11. With respect to those (41 No.) residential receptors which have the potential to experience solar reflection (for the purposes of completeness), the results of the detailed analysis of the glint and glare impacts set out in Appendix 7B & 7C are summarised in Table 7-3 with the magnitude of the impacts at each receptor being categorised as '*None*', '*Low*', '*Medium*' or '*High*'. Although no impacts have been predicted to occur at 22 No. of the receptors (including one residential area), the modelling has recorded a theoretical '*High*' impact at 7 No. receptors, a '*Medium*' impact at 1 No. receptor and a '*Low*' impact at 11 No. receptors. Paras. 7.106 – 7.133 of the GAA proceed to assess the specific circumstances of each individual receptor 'on the ground' by taking account of factors such as topography and the presence of intervening vegetation & buildings, and whether these would be sufficient to screen all views of the proposed development where glint and glare could be possible. The conclusion drawn from this analysis is that the 'actual visibility' of the proposal when developed (and in the absence of any additional mitigation) will be significantly less than the magnitude of the modelled impact. In effect, it has been submitted that the glint and glare impacts at all of the residential receptors will reduce to '*None*' once account is taken of the 'on the ground' scenario, with the exception of Receptor Nos. 5 & 34 where the impacts will continue to be '*High*' and Receptor No. 22 which is predicted to experience a '*Low*' impact.
- 7.3.12. In relation to the issue of road safety and the 34 No. road receptors which have the potential to experience solar reflection (excluding those within the non-reflection zones), the results of the modelling set out in Appendix 7D & 7E are summarised in Table 7-4, including the ocular impact of viewed glare. In this regard, the GAA advises that while there is no specific guidance available to identify the magnitude of impact from solar reflections on moving receptors except in aviation, it is thought that a similar approach should be applied to moving receptors (i.e. road traffic) as aviation, based on the ocular impact and the potential for after-image. The rationale for this approach derives from guidance issued by the US Federal Aviation Administration as regards the potential for glare to impair a pilot's vision and the

assumption that a similar approach can be applied to drivers of other vehicles. The ocular impact of viewed glare can be classified into three levels based on the retinal irradiance and subtended source angle: low potential for after-image (green), potential for after-image (yellow), and potential for permanent eye damage (red).

- 7.3.13. From a review of Table 7-4, it has been submitted that 19 No. of the road receptors have the 'potential for after-image' which is a 'High' impact, 11 No. receptors have 'low-potential for after-image' which is a 'Low' impact, and 4 No. receptors have no potential for glare (i.e. no impact). Appendix 7D and 7E show the detailed analysis of when the glint and glare impacts are possible, while also showing from which parts of the solar farm the solar glint is reflected from. Appendix 7F aims to give an insight into how each of the road receptors will be impacted by glint and glare from the proposed development through its utilisation of aerial, ground level, and street level images. It has been submitted that the aerial images show the location of the receptor with the solar farm drawn as a white polygon which can be seen on the images when the solar farm is theoretically visible. The area of the solar farm from where reflections may be possible has been drawn as a green or yellow polygon while the drivers' field of view is shown by red lines.
- 7.3.14. Para. 7.138 of the GAA has asserted that Appendix 7F has established that all of the road receptors, with the exception of Nos. 21-24, will have views of the proposed development blocked by intervening vegetation, topography or buildings, or are outside the drivers' field of view and, therefore, the modelled glint and glare impacts can be reduced to 'None'. Table 7-8 elaborates further by indicating that the 'actual visibility' of the proposal when developed (in the absence of any mitigation) will be significantly less than the magnitude of the modelled impacts with the result that only four receptors (Nos. 21-24 to the northwest) will experience any impact, although each of these will be 'High'.
- 7.3.15. Having reviewed the contents of Appendix 7F, I would suggest that the presentation of the data and the conclusions drawn therefrom would benefit from greater clarity. Furthermore, there would appear to be some gaps in the details provided with no reference having been made to Receptor Nos. 10, 20, 33 or 34. There would also appear to be a notable degree of reliance being placed on the retention of the existing hedgerow and planting along the south-eastern boundary of Field No. 7 (which is closest to the M11 Motorway) and, in this respect, I would emphasise that

any screening offered by the existing hedgerow (and any further supplementary planting to be carried out) in tandem with the set back of the solar arrays from the site boundaries should not be conflated with that provided by the existing coniferous forestry proposed for removal from within Field No. 7.

7.3.16. In response to those residential receptors (Nos. 5, 22 & 34) and road receptors (Nos, 21-24) where some degree of impact has been modelled to occur despite the 'on the ground' scenario, Para. 7.139 of the GAA has proposed the following mitigation measures to reduce the impact further:

- Native hedgerows to be planted / infilled along the northern and western boundary of Field 1 and the western boundary of Field 11 and maintained to a height of at least 4m. This will screen views from Residential Receptor No. 5 and Road Receptor Nos. 21 – 24 thereby reducing their respective impacts to 'None'.
- Native hedgerows to be planted / infilled along the southwestern boundary of Field 8 and maintained to a height of at least 4m. This will screen views from Residential Receptor No. 22 thereby reducing the impact to 'None'.
- Native hedgerows to be planted / infilled along the eastern boundary of Field 6 and maintained to a height of at least 4m. This will screen views from the ground floor windows of Residential Receptor No. 34 thereby reducing the impact to 'Low'.

7.3.17. The stated effect of these mitigation measures will be to avoid any glint or glare impacts at all of the locations investigated, save for Residential Receptor No. 34 which will experience a 'Low' impact.

7.3.18. At this point, I would draw the Board's attention to the limitations of the GAA as set out in Para. 7.85 of that document as follows:

- The model does not consider obstacles between the observation points and the proposed solar farm that may obstruct observed glare (e.g. trees, hills etc.)
- The model does not rigorously represent the detailed geometry of a system; detailed features such as gaps between modules, variable height of the PV array, and support structures may impact on actual glare results.

- Due to variations in atmospheric conditions, temperature, pressure and conditions, observed values may vary slightly from calculated positions.
- The model does not account for the effects of diffraction, however, buffers are applied as a factor of safety.
- The model assumes clear skies at all times and does not account for meteorological effects such as cloud cover, fog, or any other weather event which may screen the sun.

7.3.19. In this regard, it has been submitted that the assumptions and limitations of the modelling overestimates the minutes of glint and glare which are possible at each receptor and presents a worst-case scenario.

7.3.20. It should also be emphasised that solar reflection effects will only be experienced in specific circumstances e.g. an observer within a dwelling would have to be positioned at a window directly facing the solar panels on a sunny day at a time when a reflection is geometrically possible in order to experience any effect. With regard to road users, an observer would have to look away from the direction of travel in most instances to view a solar reflection whilst any such effects would be of a fleeting nature from a moving vehicle. In terms of the intensity of the reflections, I would reiterate that these will be comparable to those emanating from water whilst reflections from surfaces in an outdoor environment are regularly encountered by road users.

7.3.21. It is of further relevance to note the approach previously taken by the Board in its assessment of other solar energy developments in the immediate vicinity of the subject site for the purposes of comparison.

7.3.22. For example, with respect to PA Ref. No. 20171275 / ABP Ref. No. ABP-300427-17 (a solar PV development granted on lands to the west / southwest of the application site), the corresponding glint & glare study submitted in support of that application acknowledged that the development could potentially have impacted on motorists by way of glint and glare and thus some solar panels were to be omitted from the development in order to mitigate any such impacts. The assessment by the reporting inspector further recommended the inclusion of a condition previously imposed by the Planning Authority which sought the complete omission of 3 No. fields from the development in the interests of addressing the potential impacts of glint and glare for

motorists on the then proposed M11 motorway (*N.B.* It would appear that the Planning Authority was of the opinion that it would have been necessary to omit the aforementioned 3 No. fields in their entirety in order to be certain of no glint / glare impacts on users of the M11 roadway). However, notwithstanding the aforementioned recommendation, in its decision to grant permission for ABP Ref. No. ABP-300427-17 the Board did not impose any condition requiring the omission of part of the development and, therefore, it would appear to have been satisfied with the mitigation provided through the individual panel omissions detailed in the glint and glare study and the landscaping / screening proposals.

7.3.23. Similarly, in its determination of the neighbouring (parent) development under PA Ref. No. 20180055 / ABP Ref. No. ABP-301329-18, the Board chose not to omit any solar panels or to seek further information as regards any potential glint / glare impacts or to impose a condition that would have required the development to be revised pursuant to a further investigation of any such impacts.

7.3.24. On balance, while I would acknowledge the concerns raised by Transport Infrastructure Ireland, in the absence of any clear evidence to the contrary, I am amenable to accepting the findings of the Glint and Glare Assessment and that the proposed development, subject to the implementation of the necessary mitigation measures, will not have a significant impact on the residential amenity of nearby properties or the safety of road users, including those travelling along the M11 Motorway, contrary to the provisions of the '*Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012*'. Furthermore, I would accept that the effects glint and glare will only occur during suitable weather conditions whilst any such impacts will be of limited duration and will be reliant on specific circumstances such as motorists looking towards the development and away from their direction of travel. In the event the Board is not satisfied in this regard, it may wish to consider seeking further information or the imposition of conditions omitting elements of the proposed solar arrays or perhaps requiring the development to be revised pursuant to a further investigation of any glint and glare impacts.

7.3.25. In relation to the broader traffic impact of the proposed development, it should be noted that access will be gained from the existing farmyard entrance and a temporary access track previously permitted as part of the solar farm approved under ABP Ref. No. ABP-301329-18. Furthermore, whilst I would acknowledge the

limited carriageway width of certain sections of the local road network, having regard to the likely low traffic volumes and speeds along these roadways, the temporary duration of the construction works and the associated traffic movements (including the cumulative trip generation when taken in combination with ABP Ref. No. ABP-301329-18 as detailed in the 'Planning Statement' and the 'Construction Traffic Management Plan'), and the proposal to implement various traffic management / control measures, it is my opinion that the surrounding road network has sufficient capacity to accommodate the traffic volumes consequent on the proposed development and that the subject proposal will not pose a risk to traffic / public safety.

7.3.26. In respect of the on-going operation and maintenance of the proposed development, I would anticipate that the operational traffic levels arising will be quite low and unlikely to give rise to any further impact on traffic safety, particularly when cognisance is taken of the existing and historical usage of the entrance in question by larger vehicles associated with the operation of the adjacent farmyard and wider Christmas tree plantation.

7.3.27. Therefore, in view of the foregoing, and subject to the imposition of suitable conditions, I am satisfied that the impact on traffic considerations is within acceptable limits and can be satisfactorily accommodated.

#### **7.4. Impact on Habitats & Local Biodiversity:**

7.4.1. In its assessment of the impact of the proposed development on local habitats and biodiversity considerations, the Planning Authority has determined that the proposal would result in '*significant tree loss*', particularly in relation to Land Parcels 7 & 10 as identified in Figure 3: '*Field Numbers*' (Drg. No. NEO01121/009I/A), and thus would be contrary to Section 4.2.5: '*Development Management Standards for Solar Farms*' of Volume 4: '*Energy Strategy*' of the Wexford County Development Plan, 2022-2028 which states that '*No high value habitats (trees and hedgerows) should be lost as a result of the proposed development*'. By extension, it has been held that the proposed development would negatively impact on existing habitats and local biodiversity which the Development Plan seeks to protect.

7.4.2. With respect to the foregoing, it is of relevance in the first instance to note that the assessment of the implications of the proposed development for biodiversity as

undertaken by the case planner only states that the application site is currently under agriculture and forestry while it is proposed to remove the existing trees from within Land Parcels 7 & 10, the habitats of which are characteristic of a conifer plantation. The remainder of the assessment provides no further analysis to support the subsequent conclusion that insufficient information has been provided to demonstrate that the proposal would not have an adverse effect on local biodiversity / habitats. Similarly, the commentary appended to the report by the Senior Executive Planner makes no further reference to the proposed tree loss. It is only within the final reason for refusal that any reference is made to the significant tree loss, particularly within Land Parcels 7 & 10, attributable to the proposed development and the associated negative impact on habitats and local biodiversity.

7.4.3. Within the grounds of appeal, the applicant has responded by stating that Land Parcel 7 is composed of patches of immature coniferous forestry plantation (identified as 'WD4' in Figure 2.2: '*Fossitt Habitat Map*' as appended to the 'Ecological Appraisal' submitted with the application) while Land Parcel 10 comprises an area previously occupied by non-native plantation forestry that had been felled under licence at the time of the habitat survey (classified as 'Recently Felled Woodland (WS5)' in the 'Ecological Appraisal'). Moreover, it has been submitted that non-native commercial forestry / conifer plantation should not be considered to comprise a '*high value*' habitat while the recently felled area is lacking in biodiversity as it predominantly comprises bare ground.

7.4.4. At this point, I would refer the Board to Section 4.2.5: '*Development Management Standards for Solar Farms*' of Volume 10 of the Development Plan which has informed the decision to refuse permission. Notably, the provision contained therein that states '*No high value habitats (trees and hedgerows) should be lost as a result of the proposed development*' is included under the heading of '*Landscaping*' as opposed to '*Biodiversity*' which would seem to suggest that the rationale for maintaining high value habitats in the context of solar farm development derives from a need to preserve visual amenity / landscape character and not the protection of biodiversity. In any event, the key issue arising is whether the removal of any trees from within Land Parcels 7 & 10 amounts to the loss of a '*high value*' habitat. In this regard, I would concur with the applicant that coniferous forestry would not typically be classified as a high value habitat worthy of preservation given its comparatively

low ecological value and lack of species diversity. Support is lent to this position by reference to Objective NH12 of the Development Plan which states that while individual trees, groups of trees, woodlands, and hedgerows of amenity and biodiversity value are to be protected from damage and/or degradation, commercial forestry will generally be exempt, except at peripheries and/or where it has not been maintained for commercial purposes. Cognisance should also be taken of the wider support lent to the forestry industry set out in Section 6.7.6.4: '*Forestry*' of the Development Plan and its associated objectives.

- 7.4.5. Therefore, given that the habitat surveys undertaken on 10<sup>th</sup> & 11<sup>th</sup> October 2022 (please refer to Table 2-7: '*Habitat types on site*' of the Ecological Appraisal and the applicable Fossitt Guide Codes) recorded '*Conifer Plantation (WD4)*' and '*Recently Felled Woodland (WS5)*' within Land Parcels 7 & 10 respectively, and noting that both such habitat types are of a low ecological value, I am unconvinced that the removal of the conifer plantations as proposed in those areas could reasonably be held to give rise to the loss of any high value habitats. Accordingly, it is my opinion that the proposed development does not conflict with Section 4.2.5: '*Development Management Standards for Solar Farms*' of the Development Plan in that regard.
- 7.4.6. For the purposes of completeness, while I would acknowledge that the proposed development also involves the removal of an extent of hedgerow, primarily between Land Parcels 4 & 6 and 7 & 9 (as identified in Figure 3: '*Field Numbers*') and amounting to less than 500m in length, the Ecological Appraisal has identified these habitat types (WL1) as being of only moderate ecological value (given that they provide nesting and forging opportunities for birds as well as providing shelter for mammals). It should also be noted that the removal of hedgerow is permissible as part of development works by reference to Objective NH13 of the Development Plan which allows for the removal of hedgerow or natural boundaries provided it is minimised and that any hedgerows necessitating removal are reinstated with a suitable replacement of native species. Therefore, although Section 4.2.5: '*Development Management Standards for Solar Farms*' of the Development Plan would seem to intimate that all hedgerows should be considered to comprise 'high value' habitats, I would suggest that any such rigid interpretation or application of this provision would likely conflict with the wider objectives of the Development Plan, including Objective NH13. Consequently, in the absence of any convincing evidence



to the contrary, I am amenable to the accepting the results of the habitats survey as submitted by the applicant wherein it has been determined that those sections of hedgerow proposed for removal are of moderate ecological value. By extension, the proposed development does not materially contravene Section 4.2.5: *'Development Management Standards for Solar Farms'* of the Development Plan.

## **7.5. Other Issues:**

### **7.5.1. The Duration of the Permission:**

Although the description of the proposed development as set out in the public notices states that the solar farm will be operational for 40 years, I would advise the Board that the subject proposal is intended to operate as an extension / expansion of the Tomsallagh solar farm already permitted on the neighbouring lands pursuant to PA Ref. No. 20180055 / ABP Ref. No. ABP-301329-18. In this regard, it should be noted that Condition No. 3(a) of that grant of permission limited its duration to a period of 25 years from the date of the commissioning of the solar array. Therefore, given that the subject proposal is inherently linked to the implementation of ABP Ref. No. ABP-301329-18 (which has yet to commence construction), I would suggest that it would be appropriate in the interests of consistency to limit its duration to that of the already approved development.

## **7.6. Appropriate Assessment:**

### **7.6.1. Compliance with Article 6(3) of the Habitats Directive:**

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under Part XAB, Section 177U of the Planning and Development Act, 2000 (as amended) are considered fully in this section.

### **7.6.2. Background on the Application:**

The applicant submitted a screening exercise for Appropriate Assessment with the initial planning application which is contained in Section 5: *'Stage 1: Appropriate Assessment Screening'* of the Natura Impact Statement prepared by Neo Environmental and dated 19<sup>th</sup> December, 2022. The grounds of appeal have also been accompanied by a revised Natura Impact Statement (dated 29<sup>th</sup> March, 2023) which includes a *'Stage 1: Appropriate Assessment Screening'* (Section 5 of that document), the contents of which have not changed from those originally submitted.

- 7.6.3. The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development (by reference to Section 2.3 of the NIS of which the screening report forms part) and identifies the potential for significant effects on European Sites within a possible 15km zone of influence of the development.
- 7.6.4. The applicant's AA Screening Report has concluded that there is the potential for the proposed development to have significant impacts on the Slaney River Valley SAC and the Wexford Harbour and Slobbs SPA in the absence of mitigation and, therefore, further assessment is required to assess any potential impacts on the integrity of those sites.
- 7.6.5. Having reviewed the documentation submitted with the application, and the submissions received, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.
- 7.6.6. **Screening for Appropriate Assessment - Test of likely significant effects:**
- 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).
- 7.6.7. The proposed development is examined in relation to any possible interaction with European sites, i.e. designated Special Conservation Areas (SAC) and Special Protection Areas (SPA), to assess whether it may give rise to significant effects on any European Site.
- 7.6.8. **Brief description of the development:**
- The applicant provides a description of the project in Section 2.3 of the NIS and elsewhere e.g. Sections 2 & 3 of the Planning Statement. In summary, the proposed development consists of the construction of a solar PV development within a total site area of circa 38.6 hectares as an extension / expansion of the solar farm already permitted on neighbouring lands pursuant to PA Ref. No. 20180055 / ABP Ref. No. ABP-301329-18. It includes for the erection of ground-mounted solar photovoltaic panels set in metal framework racks and assembled in south-facing rows east to west in addition to associated cabling and ducting, 4 No. transformer stations, 2 No. weather stations, access / maintenance tracks, security fencing, and CCTV cameras.

- 7.6.9. The application has been accompanied by a Planning Statement, Natura Impact Statement (and appendices), Ecological Appraisal, Construction Traffic Management Plan, Outline Construction Environmental Management Plan, Glint and Glare Assessment, Landscape and Visual Appraisal, Flood Risk and Drainage Impact Assessment, Noise Impact Assessment, and an Archaeological & Architectural Heritage Impact Assessment (an amended NIS and Outline Construction Environmental Management Plan have been included with the grounds of appeal).
- 7.6.10. The development site is described in Paras. 2.5 – 2.8 of the AA screening report (within the NIS) as comprising a series of 12 No. fields used for a combination of arable farming and commercial forestry (which is due to be felled). Both the site and the wider landholding are bound by a mixture of trees and mature hedgerows while the south-eastern extent of the landholding abuts the Tinnacross Stream. Access to the site will be obtained via an existing entrance arrangement onto the local roadway to the immediate east which serves an adjacent farmyard and a further temporary access track permitted as part of the solar farm development previously approved under PA Ref. No. 20180055 / ABP Ref. No. ABP-301329-18.
- 7.6.11. Within the supporting Ecological Appraisal, the habitats survey (Fossitt) conducted on 10<sup>th</sup> & 11<sup>th</sup> October, 2022 identified the following 14 No. habitat types within the survey boundary:
- Arable Crops (BC1)
  - Buildings and Artificial Surfaces (BL3)
  - Improved Agricultural Grassland (GA1)
  - Dry Calcareous and Neutral Grassland (GS1)
  - (Mixed) Broadleaved Woodland (WD1)
  - Conifer Plantation (WD4)
  - Scrub (WS1)
  - Immature Woodland (FW2)
  - Drainage Ditches (FW4)
  - Hedgerows (WL1)
  - Treelines (WL2)

- Recently Felled Woodland (WS5)
- (Mixed) Broadleaved / Conifer Woodland (WD1)

7.6.12. Although the Ecological Appraisal has acknowledged the potential suitability of the site for certain protected or notable species (please refer to Table 2-8: '*Summary of Biological Record*'), no such species were recorded during the course of the field surveys.

7.6.13. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Surface water related pollution during the construction phase as a result of sediment-laden run-off and pollutants (hydrocarbons and concrete) entering the Tinnacross Stream (a tributary of the River Slaney which in forms part of the River Slaney Valley SAC and drains to the Wexford Harbour and Slobs SPA).
- Habitat disturbance / species disturbance (construction and / or operational).

**7.6.14. Submissions and Observations:**

All submissions and observations received from interested parties are set out in Section 3.0 of this report.

**7.6.15. European Sites:**

The development site is not located in or immediately adjacent to a European site. The closest European sites are the Slaney River Valley Special Area of Conservation (Site Code: 000781), approximately 1.4km northwest of the site, and the Wexford Harbour and Slobs Special Protection Area (Site Code: 004076), approximately 8.3km southwest of the site. Within the applicant's AA Screening Report, Table 5-1 considers the potential interactions of the proposed development with the environment as follows:

European Site	Qualifying Interest / Special Conservation Interest	Distance from the proposed development	Connections (source-pathway-receptor)	Considered Further in Screening
<p>Slaney River Valley Special Area of Conservation (Site Code: 000781)</p>	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p>	<p>c. 1.4km northwest of the site</p>	<p>Hydrological &amp; ecological connectivity</p>	<p>Yes.</p>

	<p><i>Alosa fallax fallax</i> (Twaite Shad) [1103]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><i>Phoca vitulina</i> (Harbour Seal) [1365]</p>			
<p>Wexford Harbour and Slobs Special Protection Area (Site Code: 004076)</p>	<p>Little Grebe (<i>Tachybaptus ruficollis</i>) [A004]</p> <p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p> <p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Grey Heron (<i>Ardea cinerea</i>) [A028]</p> <p>Bewick's Swan (<i>Cygnus columbianus bewickii</i>) [A037]</p> <p>Whooper Swan (<i>Cygnus cygnus</i>) [A038]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Mallard (<i>Anas platyrhynchos</i>) [A053]</p>	<p>c. 8.3km southwest of the site</p>	<p>Hydrological &amp; ornithological connectivity</p>	<p>Yes.</p>

Pintail ( <i>Anas acuta</i> ) [A054]			
Scaup ( <i>Aythya marila</i> ) [A062]			
Goldeneye ( <i>Bucephala clangula</i> ) [A067]			
Red-breasted Merganser ( <i>Mergus serrator</i> ) [A069]			
Hen Harrier ( <i>Circus cyaneus</i> ) [A082]			
Coot ( <i>Fulica atra</i> ) [A125]			
Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130]			
Golden Plover ( <i>Pluvialis apricaria</i> ) [A140]			
Grey Plover ( <i>Pluvialis squatarola</i> ) [A141]			
Lapwing ( <i>Vanellus vanellus</i> ) [A142]			
Knot ( <i>Calidris canutus</i> ) [A143]			
Sanderling ( <i>Calidris alba</i> ) [A144]			
Dunlin ( <i>Calidris alpina</i> ) [A149]			
Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156]			
Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157]			
Curlew ( <i>Numenius arquata</i> ) [A160]			
Redshank ( <i>Tringa totanus</i> ) [A162]			

	Black-headed Gull (Chroicocephalus ridibundus) [A179]  Lesser Black-backed Gull (Larus fuscus) [A183]  Little Tern (Sterna albifrons) [A195]  Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]  Wetland and Waterbirds [A999]			
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Specific conservation objectives have been included for both the SAC and the SPA to maintain or restore the various qualifying interests by reference to a list of specified attributes and targets, however, the status of the Freshwater Pearl Mussel (*Margaritifera margaritifera*) as a qualifying Annex II species for the Slaney River Valley SAC is currently under review (the outcome of this review will determine whether a site-specific conservation objective is set for this species).

**7.6.16. Identification of likely significant effects:**

***Deterioration of water quality - construction related pollution:*** The construction phase of the proposed development will involve earthworks and the disturbance of soil etc. which gives rise to the possibility of indirect negative impacts on downstream water quality through the accidental release of suspended solids / sediment etc. or the discharge of hydrocarbons and / or other pollutants by way of contaminated surface water runoff. In this regard, and following consideration of the 'source-pathway-receptor' model, drains or watercourses could act as a hydrological conduit for contaminated surface waters between the development site and the Slaney River Valley Special Area of Conservation (Site Code: 000781) as well as the Wexford Harbour and Slobs Special Protection Area (Site Code: 004076) further downstream with any associated deterioration in water quality having a potentially negative impact on downstream aquatic habitats and species identified as qualifying interests / special conservation interests..



7.6.17. **Habitat disturbance / species disturbance (construction and / or operational):**

Given the aforementioned hydrological connectivity, the potential arises for mobile species of the Slaney River Valley Special Area of Conservation to utilise habitats within the development site thereby giving rise to ecological connectivity and possible species disturbance. Additionally, qualifying bird species from the Wexford Harbour and Slobs Special Protection Area could potentially utilise habitats within the development site.

7.6.18. **Cumulative / In-combination Effects:** It is not envisaged that the proposed development will give rise to any in-combination / cumulative effects. In this regard, the Board is referred to Section 8 of the (amended) NIS document.

7.6.19. **Mitigation Measures:**

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.

7.6.20. **Screening Determination:**

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act, 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site Nos. 000781 & 004076 in view of the sites' Conservation Objectives and Appropriate Assessment (and submission of a NIS) is therefore required.

7.6.21. **The Natura Impact Statement:**

For the purposes of clarity, although the initial planning application was accompanied by a '*Natura Impact Statement: Tomsallagh Solar Farm Extension*' (dated 19<sup>th</sup> December, 2022 and prepared by Neo Environmental Ltd.) which examines and assesses potential adverse effects of the proposed development on the Slaney River Valley Special Area of Conservation and the Wexford Harbour and Slobs Special Protection Area, an updated / revised Natura Impact Statement (dated 29<sup>th</sup> March, 2023) has been provided with the grounds of appeal with a view to addressing specific concerns raised by the Planning Authority which informed the decision to refuse permission. It is this latter document which will be assessed accordingly.

7.6.22. The NIS has been informed by a desk-top analysis of various source material as well as a series of field surveys, including the following:

- *'Technical Appendix 2: Ecological Appraisal: Tomsallagh Solar Farm Extension'* prepared by Neo Environmental Ltd. which includes an on-site habitat survey that details the results of walkover studies of the site undertaken on 10<sup>th</sup> & 11<sup>th</sup> October, 2022 with a view to assessing its ecological conditions and identifying the habitats / floral assemblages present.

7.6.23. The NIS includes a description of the project and the receiving environment and is stated to be based on standard methods and current best practice guidance, including *'Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities'* (DoEHLG, 2009) and EC (2018) *'Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC'*. It outlines the characteristics of the relevant designated sites while Section 6 sets out the potential impacts arising from the construction and operation of the development on the two European Sites. Section 7 proceeds to detail the mitigation measures necessary to ensure that any direct or indirect impacts on the Natura 2000 sites are abated. No likely significant cumulative or in-combination impacts are anticipated.

7.6.24. The NIS thus concludes as follows:

*'It is concluded that the proposed development will not adversely affect the integrity of any Natura 2000 site due to measures inaugurated during the design phase and following relevant guidance to prevent pollution during the construction and operation phases. Pollution prevention measures, proposed drainage management and waste management measures have been outlined within the Mitigation section of this report.*

*It is considered that the proposed development will not have a significant effect upon any qualifying features, and therefore the integrity, of any Natura 2000 site connected with the application site.*

*It is therefore considered that the next stage (Stage 3: Assessment of Alternatives) of the Appropriate Assessment is not required'.*

7.6.25. Having reviewed the documentation available to me, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the European sites listed above, alone, or in combination with other plans and projects.

**7.6.26. Appropriate Assessment of Implications of Proposed Development:**

The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest 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.

7.6.27. I have relied on the following guidance as part of this assessment:

- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service (2009).
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC.
- Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

**7.6.28. European Sites:**

The relevant European sites subject to Stage 2 Appropriate Assessment are as follows:

- The Slaney River Valley Special Area of Conservation (Site Code: 000781)
- The Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076)

7.6.29. A description of the sites and their Conservation and Qualifying Interests/Special Conservation Interests is set out in Section 6 of the NIS as well as the screening assessment set out above. I have also examined the Natura 2000 data forms where

relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

7.6.30. The main aspects of the proposed development that could adversely affect the conservation objectives of European sites include:

- Impacts to water quality arising from surface water discharges which contain suspended solids and/or pollutants, at the construction stage.
- Habitat disturbance / species disturbance arising from the potential for mobile species of the Slaney River Valley Special Area of Conservation to utilise habitats within the development site. Additionally, qualifying bird species from the Wexford Harbour and Slobs Special Protection Area could potentially utilise habitats within the development site.

7.6.31. **Evaluation of Likely Effects:**

*The Slaney River Valley Special Area of Conservation:*

7.6.32. Details of this site and its qualifying interests are set out in Table 5-1 of the NIS with the pertinent conservation objectives aiming to maintain or restore the favourable conservation condition of the Annex I habitat(s) and / or Annex II species for which the site has been selected (noting that the status of the Freshwater Pearl Mussel as a qualifying Annex II species is currently under review, the outcome of which will determine whether a site-specific conservation objective is set for this species).

7.6.33. Given the location of the application site outside of the SAC, the proposed development will not directly impact on any Natura 2000 site through the loss or fragmentation of habitats listed as qualifying interests.

7.6.34. Surface water runoff from the proposed development site generally drains in a southeasterly direction via overland land and a series of drainage ditches to the Tinnacross Stream which flows alongside the southeastern site boundary. In turn, the Tinnacross Stream flows directly into the Slaney River (and the Slaney River Special Area of Conservation) approximately 4.27km downstream with the Slaney River then flowing into the Wexford Harbour and Slobs Special Protection Area c. 10.5km downstream of the application site. By applying the source-pathway-receptor model of risk assessment, the foregoing establishes potential hydrological

connectivity between the development site and the aforementioned Natura 2000 sites.

- 7.6.35. The construction phase of the proposed development will include tree felling, earthworks and the disturbance of soil etc. which gives rise to the possibility of indirect negative impacts on downstream water quality within the SAC through the accidental release of suspended solids / sediment etc. or the discharge of hydrocarbons and / or other pollutants by way of contaminated surface water runoff.
- 7.6.36. Table 6-1 of the NIS details common water pollutants and their effect on the aquatic environment with activities such as landworks involving topsoil removal and excavation (including tree felling) generating silt and bentonite (very fine silt) which can adversely affect the aquatic environment such as through a reduction in water quality, the clogging of fish gills, the covering of aquatic plants, and detrimental impacts on aquatic invertebrates which in turn can lead to a reduction in prey for species and a degradation of habitat. In addition, the release of cementitious materials or concrete wash water from construction activities (such as the piling for the solar panels) can give rise to changes in water chemistry that are toxic to fish and other wildlife thereby impacting directly on aquatic species (including otter) or indirectly through loss of prey resources. Similarly, the discharge of hydrocarbons and / or other pollutants can adversely affect the aquatic environment through its toxicity level, the consequential reduction in water quality, the removal of dissolved oxygen, and the suffocation of aquatic life.
- 7.6.37. Accordingly, the qualifying species of the SAC (i.e. Harbour Seal, Freshwater Pearl Mussel, Sea Lamprey, Brook Lamprey, River Lamprey, Twaité Shad, Salmon & Otter) could be negatively impacted if contaminants were to enter the aquatic system.
- 7.6.38. Paras. 6.21 – 6.33 and Section 7 of the NIS detail the mitigation measures to be employed as part of the proposed development in order to ensure that any direct or indirect impacts on the Slaney River Valley SAC are abated.
- 7.6.39. At the outset, the case has been put forward that the proposed development incorporates several integral design measures that are intended to mitigate the potential for any deterioration of water quality in local watercourses (and by extension within the SAC) attributable to construction related pollution. In this

respect, it has been submitted that no works will occur within or directly adjacent to any waterways with a 5m protection buffer to be provided from any field drain and a 10m buffer from the Tinnacross Stream. Furthermore, it is proposed to follow the guidance set out in the '*Standards for Felling & Reforestation*' (October, 2019) issued by the Department of Agriculture, Food and the Marine with respect to tree felling within the forested areas. These guidelines include a requirement for the maintenance of water exclusion zones during felling activities with a 10m wide exclusion zone to be identified along the edge of all aquatic zones wherein machine traffic and timber stacking etc. are prohibited. Other measures include the installation of silt traps within any forestry drains connecting to the Tinnacross Stream even if those drains were dry at the time of the survey (the installation of silt traps within existing forest drains that connect to aquatic zones either directly or indirectly through other relevant watercourse is also a requirement of the '*Standards for Felling & Reforestation*').

- 7.6.40. The proposed development also incorporates a Sustainable Drainage System (SuDS) along with the use of silt traps within field ditches in order to minimise the effects from pollution. In this respect, the '*Flood Risk and Drainage Impact Assessment*' (Technical Appendix 4) included with the application details the surface water drainage strategy for the proposed development which seeks to provide a sustainable and integrated surface water management scheme for the entire site that will ensure there is no increase in downstream flood risk by managing discharges from the development to the local water environment in a controlled manner. In addition to mimicking the existing 'greenfield' drainage arrangement as far as possible, it is proposed to construct multiple filter drains / soakaways on downward slopes or close to existing watercourses / drainage features or on the external boundary of any field with a relatively steep gradient so as to capture any overland flow in the SUDS device before infiltrating into the surrounding soils. Additional drainage measures include the retention & reinstatement of the grass cover adjacent to and under the solar panels in order to maximise bio-retention, the use of swales (with check dams as required) or similar to collect runoff from the access tracks with discharge to ground through percolation, and the provision of percolation areas / soakaways to accommodate runoff from the transformer stations. The SuDS features are to be implemented during the construction phase of the project (with swales to

be planted with vegetation to protect against soil erosion) and maintained throughout the lifespan of the development.

7.6.41. Further mitigation measures for the protection of watercourses are to be implemented during the construction phase, the majority of which are considered to represent best practice. These are set out in Section 7 of the NIS, the accompanying 'Ecological Appraisal', and the 'Outline Construction Environmental Management Plan' (Technical Appendix 8), and will include, inter alia, the following:

- Best practice pollution prevention measures to ensure that cementitious material / concrete wash water does not enter the aquatic environment.
- The storage of plant and equipment on dedicated hardstanding within the construction compound to minimise the risk of pollution caused by any leakages. Drip trays will also be used where appropriate.
- All plant and equipment to utilise biodegradable hydraulic oil.
- The provision of appropriate spill kits.
- Refuelling and maintenance of vehicles and plant to occur in designated areas of hardstanding.
- Diesel fuel to be stored in a bunded diesel bowser within a fenced-off area of the construction compound.
- All fuels, oils and chemicals to be suitably stored in bunded containment areas.
- Wastewater from the welfare facilities for construction staff to be discharged to a sealed containment system and disposed of by a licensed waste contractor.
- The early seeding of embankments near watercourses to reduce the potential for sediment runoff.
- Best practice biosecurity measures to be implemented throughout the construction phase.
- The preparation (and implementation as necessary) of emergency spill or pollution response plans.

- The diversion of hardstanding runoff (likely to have a higher silt loading due to mobilised soils from excavations etc.) to swales located on the lowest boundary of each of the construction compounds. These drainage schemes will be removed at the end of the construction phase and the areas reinstated.
- Upgradient cut-off ditches and water diversion measures to be installed in order to intercept and divert clean water around the construction compound areas. This will reduce or prevent the amount of potentially silt-laden or polluted water that might require treatment.
- Sediment control measures such as silt traps, gravel, sandbags, anchored straw bales or silt fencing might be required at the discharge point to prevent erosion at the outlet and to aid in the dispersion of the diverted clean water.
- All excavation and earthworks to be carried out in accordance with '*BS6031:2009 Code of Practice for Earthworks*'. Soil handling extraction and management to be undertaken with regard to best practice guidelines such as the '*Guidance on Waste Management (Management of Waste from the Extractive Industries) Regulations, 2012*'.

7.6.42. In specific reference to the proposed tree felling operations, Paras 7.16 -7.22 of the NIS reiterate that these will be carried out in accordance with the '*Standards for Felling & Reforestation*' which recommend that a harvest plan outlining all relevant ecological and environmental measures be submitted as part of the felling licence application process. An Ecological Clerk of Works is also to be assigned and present during the removal of any woodland habitats with responsibility for producing a 'Toolbox Talk' outlining the ecological risks and environmental sensitivities involved with those works. Further mitigation is to be provided through the installation of silt traps and silt fences while the resetting of exposed root plates during tree felling and the cessation of felling works during and after periods of heavy rainfall will aid in eliminating possible sources of silt.

7.6.43. Operations and activities that have the potential to impact on the water environment are also to be subject to regular monitoring throughout the construction phase to ensure compliance with planning conditions and environmental regulations. Such



monitoring would normally be included as best practice and does not imply any uncertainty regarding adverse effects or the effectiveness of any mitigation measure.

7.6.44. With the implementation of the integral design measures, best practice pollution prevention measures, and the remainder of the proposed mitigation measures, it has been submitted that the impact of any contamination of waters would be negligible. Accordingly, the proposed development will not result in any significant adverse effects to Freshwater Pearl Mussel, Sea Lamprey, Brook Lamprey, River Lamprey, Twaité Shad and Salmon. It should also be noted that while the Derreen River and its sub-catchment (with the Derren River falling within the SAC) are protected pursuant to the European Union Environmental Objectives (Freshwater Pearl Mussel) (Amendment) Regulations 2009, as amended, these populations of freshwater pearl mussel are located a significant distance upstream of the application site and thus will be unaffected by the proposed works. Furthermore, given the hydrological separation distance of c. 10km between the development site and the uppermost limit of the habitat of the Harbour Seal (as identified in Map 7: *'Slaney River Valley Conservation Objectives Common Harbour Seal'* available from the NPWS), the considerably greater separation distance from known downstream breeding, moulting and resting sites for Harbour Seal off the Wexford coast, and the likely dilution factors involved over the aforementioned distances, the proposed development will not result in any significant adverse effects to this qualifying species.

7.6.45. Although no evidence of otter was recorded during the habitat survey, it is accepted that the Tinnacross Stream offers potential commuting and foraging habitat for this species. Therefore, while the survey findings would support the conclusion that the proposed development will not lead to the disturbance of otter, given that the species is present in the wider area and is also highly mobile, the mitigation measures proposed are intended to ensure that if the baseline were to differ at the time of construction, no significant effect to otter would occur. Accordingly, it is proposed to undertake a pre-commencement survey of the stream for otter prior to construction in order to confirm the presence / absence of otter holts and / or resting places within close proximity of the application site. If holts / resting places are found to be present, additional measures will be required to prevent significant impacts for otter.

7.6.46. *The Wexford Harbour and Slobs Special Protection Area:*

Details of this site and its qualifying interests are set out in Table 5-1 of the NIS with the pertinent conservation objectives aiming to maintain or restore the favourable conservation condition of the habitats and the bird species for which the site has been selected.

7.6.47. Given the location of the application site outside of the SPA, the proposed development will not directly impact on any Natura 2000 site through the loss or fragmentation of habitats listed as qualifying interests. However, in keeping with the preceding paragraphs, by applying the source-pathway-receptor model of risk assessment, the drainage of the subject site to the Tinnacross Stream establishes potential hydrological connectivity between the development site and the SPA c. 10.5km downstream.

7.6.48. At this point, it should be reiterated that the construction phase of the proposed development will include tree felling, earthworks and the disturbance of soil etc. thereby giving rise to the possibility of indirect negative impacts on downstream water quality within the SPA through the accidental release of suspended solids / sediment etc. or the discharge of hydrocarbons and / or other pollutants by way of contaminated surface water runoff. Moreover, the preceding paragraphs have already set out how water pollutants can affect the aquatic environment, including through a reduction in prey species for qualifying interests and / or a degradation of habitat. In this regard, the implementation of the integral design measures, best practice pollution prevention measures, and the proposed mitigation measures (as set out above) will ensure that the impact of any contamination of waters will be negligible and that the proposed development will not result in any significant adverse effects. In addition, the hydrological separation distance between the development site and the uppermost limit of SPA along with the likely dilution factors involved, will avoid any significant adverse effects on qualifying species and habitats within the SPA.

7.6.49. With respect to the development site itself, this is stated to be sub-optimal for the majority of the qualifying species associated with the SPA as the lands are predominantly composed of woodland habitats. In support of this assertion, it has been submitted that most of the qualifying species of the SPA are wetland and

waterbirds (including ducks, geese and swans) while other species (Goldeneye, Curlew, Shelduck, Knot, Sanderling, Dunlin & Scaup) are dependent on coastal habitats for foraging activities. Therefore, given the distance between the application site and the coast, along with the lack of suitable habitats on the site, the proposed development will have negligible effects for these species.

- 7.6.50. Although Whooper Swan, Oystercatcher, Golden Plover, Grey Plover, Lapwing, Greenland White-Fronted Geese, Light-Bellied Brent Goose and Wigeon are all wetland species, they are known to forage in grassland and arable crops. However, only a small proportion of the development site is used as agricultural grassland and arable cropping with the majority of the land occupied by woodland habitats. Furthermore, research has indicated that the core foraging ranges of all the aforementioned species are less than 5km. Considering that the SPA is located in excess of 8km from the development site (with the coastal habitats at an even greater distance) and provides for a richer feeding area, it is considered that the loss of habitats as a result of the proposed development would have a negligible effect on those species.
- 7.6.51. It is acknowledged that some qualifying species (i.e. Grey Heron, Mallard, Teal, Coot, Little Grebe, Great Crested Grebe, Cormorant, Pintail, Red-Breasted Merganser & Bewick's Swan) may occasionally utilise the Tinnacross Stream for foraging, however, given that there will be a 10m buffer between the proposed development and the stream, it has been submitted there will be no direct habitat loss for any of these species and, by extension, a negligible effect on those species.
- 7.6.52. The Special Protection Area also contains an important winter roosting site for Hen Harrier. While this species is known to use woodland edges to forage during the winter period, it is considered that Hen Harrier associated with the SPA would not commute to the application site as the core foraging distance of the species is less than 2km. Support is lent to this conclusion by the absence of any records of Hen Harrier within 2km of the application site (please refer to Technical Appendix 2: 'Ecological Appraisal').
- 7.6.53. Furthermore, given the availability of other suitable habitat in the wider landscape, it has been submitted that the potential for noise disturbance of qualifying species associated with the SPA during the construction and post-construction phases will

not be significant, although mitigation measures relating to potential noise disturbance are proposed in Paras. 7.8 – 7.9 of the NIS.

*7.6.54. Proposed Mitigation Measures:*

On balance, I would accept that the implementation of best practice and adherence to the mitigation measures set out in the NIS will serve to avoid any impacts on down-gradient water quality as well as the disturbance of habitats and / or species of qualifying interest thereby ensuring that there are no significant adverse effects on protected sites or species within Natura 2000 sites.

*7.6.55. Cumulative and In-Combination Effects:*

Cumulative / in-combination effects have been considered in the submitted NIS with regard to the National Planning Framework, the Regional Spatial and Economic Stagey for the Southern Region, the Wexford County Development Plan, 2022-2028, and surrounding developments (including the neighbouring solar farm permitted under PA Ref. No. 20180055 / ABP Ref. No. ABP-301329-18). No likely significant cumulative effects on any Natura 2000 sites are expected as a result of the proposed development.

7.6.56. In this regard, having considered the planning history of the surrounding area, I am satisfied that the proposed development, subject to suitable mitigation, would not be likely to give rise to any in-combination / cumulative impacts with other plans or projects which would adversely affect the integrity of any Natura 2000 site and would not undermine or conflict with the Conservation Objectives applicable to same

*7.6.57. Integrity Test:*

Following the Appropriate Assessment and the consideration of mitigation measures, I can ascertain with confidence that the project would not adversely affect the integrity of the Slaney River Valley Special Area of Conservation (Site Code: 000781) or the Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076) in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

**7.6.58. Appropriate Assessment Conclusion:**

The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act, 2000, as amended.

7.6.59. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on two European Sites, the Slaney River Valley Special Area of Conservation and the Wexford Harbour and Slobs Special Protection Area. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of these European sites in light of their conservation objectives.

7.6.60. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the Slaney River Valley SAC or the Wexford Harbour and Slobs SPA, or any other European site, in view of the sites' Conservation Objectives.

7.6.61. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives of the aforementioned designated sites.
- Detailed assessment of in-combination effects with other plans and projects including historical projects, current proposals, and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Slaney River Valley SAC.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Wexford Harbour and Slobs SPA.

## **8.0 Recommendation**

8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be granted for the

proposed development for the reasons and considerations, and subject to the conditions, set out below:

## 9.0 Reasons and Considerations

9.1. Having regard to:

- the national and regional policy objectives in relation to renewable energy,
- the provisions of the Wexford County Development Plan 2022 – 2028,
- the nature, scale, extent and layout of the proposed development,
- the documentation submitted with the application and appeal, including the Natura Impact Statement, Planning Statement, Ecological Appraisal, Construction Traffic Management Plan, Outline Construction Management Plan, Glint and Glare Assessment, Landscape and Visual Appraisal, Flood Risk and Drainage Impact Assessment, Noise Impact Assessment, and Archaeological & Architectural Heritage Impact Assessment,
- the mitigation measures proposed for the construction and operation of the proposed development,
- the topography of the area,
- the existing hedging and screening on the site,
- the pattern of development in the area,

it is considered that, subject to compliance with the conditions set out below, the proposed development would support national and regional renewable energy policy objectives, would not conflict with the provisions of the operative Development Plan, would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity, would not be likely to have significant effects on the environment or the ecology of the area, would be acceptable in terms of traffic safety and convenience, and would make a positive contribution to Ireland's renewable energy requirements. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 30<sup>th</sup> day of March, 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of the development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

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

**Reason:** Having regard to the nature of the proposed development, the Board considers it reasonable and appropriate to specify a period of the permission in excess of five years.

3.

- a) The permission shall be for a period of 25 years from the date of the commissioning of the solar array. The solar array and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.
- b) Prior to commencement of development, a detailed restoration plan, including a timescale for its implementation, providing for the removal of the solar arrays, including all foundations, anchors, inverter/transformer stations, substation, CCTV cameras, fencing and site access to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority.
- c) On full or partial decommissioning of the solar farm, or if the solar farm ceases operation for a period of more than one year, the solar arrays, including foundations/anchors, and all associated equipment, shall be

dismantled and removed permanently from the site. The site shall be restored in accordance with this plan and all decommissioned structures shall be removed within three months of decommissioning.

**Reason:** To enable the planning authority to review the operation of the solar farm over the stated time period, having regard to the circumstances then prevailing, and in the interest of orderly development.

4. This permission shall not be construed as any form of consent or agreement to a connection to the national grid or to the routing or nature of any such connection.

**Reason:** In the interest of clarity.

5. All of the environmental, construction and ecological mitigation measures, as set out in the Planning Statement, Natura Impact Statement, Ecological Appraisal, Construction Traffic Management Plan, Outline Construction Management Plan, Flood Risk and Drainage Impact Assessment, Noise Impact Assessment, Glint and Glare Assessment, Landscape and Visual Impact Appraisal, and other plans and particulars submitted with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 30<sup>th</sup> day of March 2023, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this Order.

**Reason:** In the interests of clarity and of the protection of the environment during the construction and operational phases of the development.

6.

- a) Existing field boundaries shall be retained (other than those specified for removal in the application documentation), notwithstanding any exemptions available and new planting shall be undertaken in accordance with the Landscape & Ecology Management Plan (Drawing Numbers NEO01121\_Figure 1.12a, Figure 1.12b and Figure 1.12c) submitted with the application.
- b) Details for the provision of additional screen planting in the locations identified in 'Technical Appendix 7: Glint and Glare Assessment' shall be



submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- c) All landscaping shall be completed in accordance with the details received to the written satisfaction of the planning authority. Any trees or hedgerow that are removed, die or become seriously damaged or diseased during the operative period of the solar farm as set out by this permission, shall be replaced within the next planting season by trees or hedging of similar size and species, unless otherwise agreed in writing with the planning authority.
- d) The Biodiversity Management Plan shall be implemented in accordance with the details received to the written satisfaction of the planning authority.

**Reason:** In the interests of biodiversity, the visual amenities of the area and the residential amenities of property in the vicinity.

7.

- a) No artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.
- b) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the road.
- c) Cables within the site shall be located underground.
- d) The inverter/transformer stations shall be dark green in colour.

**Reason:** In the interests of clarity and of visual and residential amenity

8. Prior to the commencement of construction on site, details of the structures of the security fence showing provision for the movement of mammals at regular intervals along the perimeter of the site shall be submitted for prior approval to the planning authority.

**Reason:** To allow wildlife to continue to have access across the site, in the interest of biodiversity protection.

9. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological

materials or features which may exist within the site. In this regard, the developer shall:

- a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- i) the nature and location of archaeological material on the site, and
- ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including but not limited to, hours of working, noise and dust management measures, surface water management proposals, the management of construction traffic and off-site disposal of construction waste.

**Reason:** In the interests of public safety, residential amenity and protection of the environment.

11. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services and shall otherwise comply with Technical Appendix 4: Flood Risk and Drainage Impact Assessment submitted to the planning authority on 9<sup>th</sup> January, 2023.

**Reason:** In the interest of environmental protection and flood prevention.

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

**Reason:** To ensure satisfactory reinstatement of the site.

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

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

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.

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Robert Speer  
Planning Inspector

25<sup>th</sup> January, 2024

**Appendix 1 - Form 1**  
**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-316163-23		
<b>Proposed Development</b> <b>Summary</b>	Permission for a period of 10 years to construct and complete a solar PV development with a total site area of circa 38.6 hectares, to include PV panels mounted on metal frames, new access tracks, underground cabling, perimeter fencing with CCTV cameras, 4 No. transformer stations, 2 No. weather stations, access gates and all associated works. Access will be gained from the existing farmyard entrance and a temporary access track which were consented as part of the original Tomsallagh Solar Farm application (PL Ref: 20180055, ABP Ref. No. 301329-18) off the Clone Road to the east of the site. The solar farm would be operational for 40 years. A Natura Impact Statement will be submitted to the planning authority with the application.		
<b>Development Address</b>	Tomsallagh, Enniscorthy, Co. Wexford.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	<input checked="" type="checkbox"/>
		<b>No</b>	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	<input checked="" type="checkbox"/>		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment</b> (if relevant)
			<b>Conclusion</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	<input checked="" type="checkbox"/>	Class 1 of Part 2 of Schedule 5, (a) Projects for the restructuring of rural land	Proceed to Q.4

		holdings, where the length of field boundary to be removed is above 4 kilometres, or where re-contouring is above 5 hectares, or where the area of lands to be restructured by removal of field boundaries is above 50 hectares.		
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<b>4. Has Schedule 7A information been submitted?</b>		
<b>No</b>	✓	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-316163-23	
<b>Proposed Development Summary</b>	Permission for a period of 10 years to construct and complete a solar PV development with a total site area of circa 38.6 hectares, to include PV panels mounted on metal frames, new access tracks, underground cabling, perimeter fencing with CCTV cameras, 4 No. transformer stations, 2 No. weather stations, access gates and all associated works. Access will be gained from the existing farmyard entrance and a temporary access track which were consented as part of the original Tomsallagh Solar Farm application (PL Ref: 20180055, ABP Ref. No. 301329-18) off the Clone Road to the east of the site. The solar farm would be operational for 40 years. A Natura Impact Statement will be submitted to the planning authority with the application.	
<b>Development Address</b>	Tomsallagh, Enniscorthy, Co. Wexford.	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The overall development is a novel development in this rural area and will involve a change from agricultural and forestry use to renewable and ancillary grazing use.</p> <p>The extent of hedgerow boundary removal is minimal and not exceptional in the context of this rural area, and the development will not result in significant emissions to the environment.</p>	No.
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context</p>	<p>The scale of development is exceptional in the context of surrounding development, but not exceptional for solar energy developments. The extent of hedgerow removal is not significant</p>	No.

<p>of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>(&lt;500m) and is below the threshold for Rural Restructuring set out in Part 2 of Schedule 5.</p> <p>It is not considered that there is any likelihood of significant cumulative effects with other existing or permitted developments in the area.</p>	
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The site does not comprise, and is not located proximate to any, ecologically sensitive site or location. There are indirect hydrological connections to waterways and the Slaney River Valley Special Area of Conservation and the Wexford Harbour and Slobbs Special Protection Area with these designated sites having been assessed in the Appropriate Assessment. Having regard to the nature of such connections and the nature of works proposed, significant effects on the environment are not likely.</p> <p>There are no adjoining protected structures. An Archaeological and Architectural Heritage Impact Assessment adequately addresses issues in this regard. Boundary removal will not significantly impact on cultural heritage.</p>	<p>No.</p>
<p><b>Conclusion</b></p>		
<p><b>There is a real likelihood of significant effects on the environment.</b></p> <p>EIAR required.</p>		

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Robert Speer  
 Planning Inspector

25<sup>th</sup> January, 2024