

Inspector's Report ABP-317749-23

Development	Construction and continuous operation of an agricultural biogas renewable energy facility. A Natura Impact Statement (NIS) accompanies this application. Maylin, Newtowncunningham, Co.
	Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2350686
Applicant(s)	Northwest Energy Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First / Third Party
Appellant(s)	Northwest Energy Limited
Observer(s)	None
Date of Site Inspection	9 th July 2024

Inspector

Ronan O'Connor

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1.0 Site Location and Description

1.1. The subject site comprises a stated area of 4.7 ha and is bounded to the north by the local Road L-5024 and by deciduous woods and wetland and by the L-1214 road to the east. The site comprises tillage lands and is undulating, generally in a southwest direction. The immediate adjoining area is characterised by formed agricultural lands. Access to the site is off the adjoining L-5024 local county road.

2.0 **Proposed Development**

- 2.1. The proposed development will consist of the Construction and continuous operation of an agricultural biogas renewable energy facility consisting of:
 - 3 No. Primary Digester Tanks,
 - 2 No. Post Digestor Tanks with Pumproom,
 - Pasteurisation unit with auxiliary tanks,
 - Emergency Flare with base and security fencing,
 - 3 No. Agricultural Solid Feeders with associated concrete bases,
 - 2 No. Underground Pre-reception tanks,
 - 2 No. Covered Agricultural Digestate Storage Tanks,
 - Gas Combined Heat & Power (CHP) Unit with concrete base,
 - Site Office/Control Building with associated staff car parking area and wastewater treatment system and percolating area,
 - Biogas upgrading treatment and compression system,
 - Electric Transformer and Sub-Station with security fence,
 - Agricultural feedstock storage facility,
 - Nutrient Recovery System with ancillary tanks and equipment,
 - 4 No. Ammonium Sulphate Solution (ASS) storage tanks with concrete bases,
 - Digestate Drying and Pelletising Plant,
 - Pellet storage facility,

- Weighbridge,
- Construct new access and entrance improvement works,
- Site lighting with security cameras,
- Surface Water Drainage Systems with storage pond and discharge system,
- Boundary earth bunded areas, landscaping and boundary security fencing,
- And all ancillary works on Lands measuring 4.7 hectares.
- 2.1.1. In terms of supporting documentation, the application is accompanied by *inter alia*:
 - An Environmental Report (April 2023) which includes inter alia
 - Ornithological Report
 - Water Management Plan
 - Air Quality Impact Assessment Report
 - Odour Management Plan
 - Noise Impact Assessment Report
 - Traffic and Transport Assessment Report
 - Archaeological Report
 - A Preliminary Construction Management Plan (CEMP)(April 2023)
 - A Site Assessment (March 2023)
 - An Appropriate Assessment Screening and Natura Impact Statement (April 2023)
- 2.1.2. The proposed processes are set out in the submitted Environmental Report and I have set out a summary of same below.
- 2.1.3. As set out in the submitted Environmental Report, Anaerobic Digestion (AD) is the controlled use of biodegradable organic materials to produce renewable energy in the form of biogas. The process also produces 'digestate' .Biogas can be used as a fuel and the digestate is the residue of the organic matter after AD and can be used an organic fertiliser and soil conditioner.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission [decision date 13th July 2023] for 3 no. reasons as per below.

- 1. In the absence of detailed specifications for the types of materials that would be used as digestate to feed the proposed digesters associated with the biogas renewable energy facility, and ambiguity arising from inconsistencies within the application documents submitted in relation to the ratio of digestate that would be made up from "farm byproducts", the Planning Authority considers that to grant the proposed development would have significant detrimental impacts on residential amenity, the environment (including public health) and Natura 2000 sites over an expansive area, and thus to grant permission would materially contravene several policies of the County Donegal Development Plan 2018-2024 (as varied) and be contrary to the proper planning and sustainable development of the area.
- 2. In the absence of detailed proposals for the upgrade of the local public road network the Planning Authority considers that to grant the proposed development would give rise to obstruction of the public road network and generate traffic hazards and thus to grant permission would be contrary to the proper planning and sustainable development of the area.
- 3. In the absence of detailed, comprehensive and consistent specifications for the attenuation and treatment by bio-remediation of storm water outflow from the site, the Planning Authority considers that to grant the proposed development would give rise to flooding, have detrimental impacts on residential amenity, public health, and Natura 2000 sites, and thus to grant permission would materially contravene several policies of the County Donegal Development Plan 2018-2024 (as varied) and be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. The Board will note that the subject application [PA Reg Ref 2350686] was considered and assessed by the Planning Authority under the County Donegal

Development Plan 2018-2024 (as varied). In the interim, the Board will note that the County Donegal Development Plan 2024-2030 which was adopted on 16th May 2024 and came into effect on 26th June 2024.

- 3.2.2. Planning Reports
- 3.2.3. The Planner's Report (dated 12th July 2023) is summarised below:

Principle of Development

- Renewable Energy Policy E-P-2 and Economic Development Policies are supportive of the proposed facility subject to the proposed development being assessed for compliance under ED-P-14
- Considered that the proposed facility may be compatible with surrounding uses/utilises silage and animal slurry
- Not considered that odours arising would be inconsistent with other odours in a rural landscape /subject to no use of alternative feedstocks
- Would not entail unduly noisy processes
- Use of alternative feedstocks could impact an area within a 20km radius of the site
- The use of animal tissues should be precluded
- Inconsistency in relation to the issue of whether waste would be used in the facility
- Not clear if offal and diseased or dead animal tissue is classed as a waste or an agricultural by-product
- Applicant has not explicitly confirmed that all feedstocks would be solely restricted to plant tissue material
- No model of economic feasibility was submitted demonstrating that the proposed development would be viable without any net income being derived from payment for acceptance of certain digestate materials
- Suitable developer led improvements may be capable of delivering adequate onsite foul water infrastructure (effluent disposal)/FI may be required to ascertain if same can be viably delivered

- Reference is made to contents of the report of the Senior Executive Scientist/may be issues with dissolved nutrients entering sheoughs and streams/settlement ponds may not suffice/bioremediation may be necessary also
- Reference is made to report of the Roads Engineer/Road Design Office/raises issues in relation to carrying capacity of the road and other issues
- Could potentially adversely affect features of natural heritage
- In relation to flooding it is noted that areas of the site are prone to inundation
- Water management plan prescribes an attenuation tank larger than shown on the plans/deeper than shown

Siting and Design

- Layout design and associated infrastructure are of high quality/appropriate boundary and means of enclosure are proposed
- Noted that the agriculture storage building is a substantial building/different colour required for the digester membranes
- FI required to ensure that the proposed facility would not compromise water quality/conflict with measures contained within the current North-Western River Basin Management Plan.
- Measures to assist integration into the landscape are required

Public Health

• Subject to conditions, PA is satisfied that the proposal can efficiently dispose of effluent/inconsistency in the PE capacity can be addressed by condition

<u>AA</u>

 Requires addendum to the NIS given the absence of clarity to the nature of substrate from which the fertiliser would be derived

<u>EIA</u>

Proposed development is considered to possibly come under Part 1 (6) of Schedule 5

Archaeology

- Reference is made to DHLGH report in relation to archaeology/condition recommended
- 3.2.4. I would note that FI was not sought by the Planning Authority.
- 3.2.5. The Planner's recommendation was to <u>Refuse permission</u>
- 3.2.6. Other Technical Reports

Building Control [dated 2nd June 2023] – Works to comply with Building Regs

Senior Executive Scientist [dated 1st June 2023]

- Applicant must apply to the EPA for an Industrial Emissions Licence (annual tonnage is over 10,000 tonnes of feedstock)
- Discharge of water from the 'settlement/attenuation pond' will need to be addressed in the Industrial Emissions Licence, in view of the potential for nutrient release/An integrated constructed wetland should be considered which will remove nutrients, either as an alternative or additional form of treatment to the settlement pond whose primary function will be to remove sediment.
- Applicant shall comply with all conditions in the IEL licence in relation to Emissions to Air/Emissions to Water and Noise

Environmental Health [dated 8th June 2023] - Cannot be assessed due to lack of resources

Road Design [dated 8th June 2023] – FI requested in relation to road markings and signage/vision lines/drainage design

Roads [dated 21st June 2023]

- PA should consult TII/impact on the L-5024 & L-1214 onto the N13
- Left turns onto local road from N13 will be difficult/has not been considered by the applicant
- Proposed volume of traffic on local road L-5024 needs to be presented
- Local roads may be insufficient to facilitate a high volume of HGVs/Special contribution will need to be applied
- Setback area required

 Applicant needs to drain to a suitable location/3rd party consent is needed/no drainage indicated on the proposed access road

3.3. Prescribed Bodies

Loughs Agency [dated 30th May 2023] – proposed development falls outside the geographical jurisdiction of the Loughs Agency

<u>Health and Safety Authority (HSA)</u> [dated 16th June 2023] – does not advise against the granting of planning permission

Department of Housing, Local Government and Heritage (DHLGH) [dated 26th June 2023]

Nature Conservation

- Recommends that mitigation measures contained in the NIS should be conditioned/additional conditions recommended
- Comments in relation to timing of site clearance/retention of existing vegetation

Biodiversity Retention and Creation

- Should provide further natural buffers around the development/at least 5m, ideally 10m
- Reference is made to high level objectives for 'No Net Loss of Biodiversity' in the National Biodiversity Action Plan 2017-2021/opportunity include element of deliberate biodiversity retention or creation

Lighting

• Recommendations in relation to lighting

SUDS/Surface Water Management

 Hard standings and car parking areas should be planned or re-designed to use nature-based solutions for water quality protection/Recommendations set out in relation to same

<u>Department of Housing, Local Government and Heritage (DHLGH)</u> [dated 29th June 2023] – recommend conditions in relation to archaeology

3.4. Third Party Observations

- 3.4.1. 1 no observation received at planning application stage. Issues raised are summarised below:
 - Increase in traffic
 - Noise and odour issues
 - Light pollution
 - Land take for food supply/would put traditional farming enterprises at risk
 - Impacts on landscape/local environment
 - Should be on an industrial estate/close to a national gas pipeline/impact on scenic amenity

4.0 Planning History

4.1.1. No planning history on the site.

5.0 Policy Context

5.1. Local Policy

County Donegal Development Plan 2024-2030

The Board will note that the subject application [PA Reg Ref 2350686] was considered and assessed by the Planning Authority under the County Donegal Development Plan 2018-2024 (as varied). In the interim, the Board will note that the County Donegal Development Plan 2024-2030 which was adopted on 16th May 2024 and came into effect on 26th June 2024. The relevant plan Development Plan is therefore the County Donegal Development Plan 2024-2030.

Objective and Policies of relevance are as follows:

Section 9.12 'Bioenergy' 9.1.2 Bioenergy

.. The County has large areas of sustainable managed commercial forestry which has potential for use as wood fuel for both domestic and commercial markets. In addition, the growth of interest in energy crops such as willow, rape seed and mischantus, all represent alternative biofuel opportunities which are viable and already growing in the County.

- Objective E-O-1 To sustainably develop a diverse and secure renewable energy supply to meet demands and capitalize on the County's competitive locational advantage
- Objective E-O-7 To recognize that natural gas, particularly renewable and indigenous gas with the exception of fracking proposals, will continue to have a role to play in the transition to a low carbon economy

Policy E-P-2

It is a policy of the Council:

a. to facilitate the appropriate development of renewable energy and energy storage projects arising from a variety of sources, including hydro power, ocean energy, hydrogen, bioenergy, biomass, solar, wind, district heating systems and geo-thermal and the storage of water as a renewable kinetic energy resource, in accordance with all relevant material considerations and the proper planning and sustainable development of the area;

b. not to support the process of Hydraulic Fracturing (or fracking).

c. applications for Solar Farm developments should be accompanied by glint and

glare assessments

Policy E-P-5 It is a policy of the Council to seek to ensure that, where practicable, power lines be routed underground, having particular regard to the scenic amenity of the receiving landscape

Policy E-P-6 It is a policy of the Council that when designing, planning and consenting for new electricity grid infrastructure, opportunities to use the existing roads and rail network for such development will be considered in accordance with any protocols developed between ESB/Eirgrid, TII, DECC/DOT and Local Authorities

Policy E-P-8 It is a policy of the Council to support and facilitate proposals for secure, appropriately scaled energy storage systems and infrastructure, including green hydrogen gas storage which supports energy efficiency and reusable energy systems, subject to other objectives and policies of this plan.

Policy ED-P-4 Consider proposals for the businesses in rural areas of the nature identified in 'a.', b.' and 'c.' below, where such uses would comply with the terms of 'c.' below: a. Valuable additions to the local economy and/or tourism offering in an area, such as those relating to food (particularly value-added products such as artisan food), forestry (e.g. wood products), crafts, creative industries, ecotourism and agritourism (e.g. farmhouse accommodation, pet farms, farm holidays, health farms, equestrian activities, bird-watching holidays, painting and photography tuition, angling tourism, field studies cycling and hill-walking); and

b. Genuine Farm Diversification Schemes where the diversification scheme is to be run in conjunction with the agricultural operations of the farm. The provision of associated short-term let rental accommodation purposes (up to a maximum of five units) may be considered.

c. i. As far as possible, proposed developments should reuse or adapt existing redundant farm buildings. ii. Any new proposed building must be of a scale, form and design appropriate to the rural area. iii. Compliance with all the relevant criteria of Policy ED-P-10. iv. Where there are deficiencies in water infrastructure and/or where it is not possible to connect to the public systems, the developer will be required to demonstrate that bespoke development-led solutions can be identified, agreed in writing, implemented, and maintained

Policy ED-P-7 - Consider proposals for the expansion or re-development of an existing economic development in the countryside provided the scale and nature of the resultant development will contribute positively to the long-term sustainability of the existing enterprise, subject to compliance with all relevant provisions of Policy ED-P-10. A proposal which would not meet these criteria will only be permitted in exceptional circumstances where it can be demonstrated that:

The proposal would provide for consolidation and/or remediation of the existing facilities;

a. Where relocation of the enterprise would not be possible;

b. The proposal would make a significant contribution to the local economy;

c. The development would maintain the existing rural character of the area;

and

d. Where infrastructural improvements are required that a developer-led solution can be identified and delivered.

Policy ED-P-9 - It is a policy of the Council that any proposal for economic development use, in addition to other policy provisions of this Plan, will be required to meet all the following criteria; a. It is compatible with surrounding land uses existing or approved; b. It would not be detrimental to the character of any area designated as being of Especially High Scenic Amenity (EHSA); c. It does not harm the amenities of nearby residents d. There is existing or programmed capacity in the water infrastructure (supply and/or effluent disposal) or suitable developer-led improvements can be identified and delivered; e. The existing road network can safely handle any extra vehicular traffic generated by the proposed development or suitable developer-led improvements are identified and delivered to overcome any road problems; f. Adequate access arrangements, parking, manoeuvring and servicing areas are provided in line with the development and technical standards set out in this plan or as otherwise agreed in writing with the planning authority; g. It does not create a noise nuisance; h. It is capable of dealing satisfactorily with any emission(s); i. It does not adversely affect important features of the built heritage or natural heritage including natura 2000 sites; j. It is not located in an area at flood risk and/or will not cause or exacerbate flooding; k. The site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity; I. Appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view; m. In the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape; n. It does not compromise water quality nor conflict with the programme of measures contained within the current north western river basin management plan.

Policy ED-P-10 To consider commercial developments, excluding traditional High Street uses that would generate regular customer trips (e.g. retail, consumer services, café/restaurant, public house etc.), on the periphery of settlements where: a. such uses would be incompatible with, and detrimental to, the centres of such settlements by virtue of their inherent 'bad neighbour' characteristics, inclusive of the generation of industrial-scale vehicle trips that would be detrimental to the amenities of the centre; and/or b. the extent of land required for the effective functioning of such an enterprise in the centres would be prohibitive. All such proposals shall also be considered against other relevant policies of the Plan including, inter alia, traffic and pedestrian safety and public health. Convenience and comparison retailing will not be supported in such cases, and proposals shall be considered against the Retail Planning Guidelines and Policy RS-P-3 (sequential test) and RS-P-4 (retail impact assessment) where retailing is proposed. Exceptions to the general presumption against retail development may be considered in the case of developments where the sale of vehicles is the predominant use.

Policy ED-P-11 To support: a. The principle of the creation of appropriately scaled local multi feed stock bio-refining hubs and bio-clusters; and b. The future-proofing of infrastructure planning to allow for the potential upgrading of existing industrial sites to bio-refining plants while also supporting the use of bio-renewable energy for the sustainable production of bio-based plants.

The site lies partly within an Area of High Scenic Amenity and an Area of Moderate Scenic Amenity as defined in Map 11.1 'Scenic Amenity'.

- Objective L-O-1 : To protect, manage and conserve the character, quality and value of the Donegal landscape.
- Policy L-P-2 To protect areas identified as 'High Scenic Amenity' and 'Moderate Scenic Amenity' on Map 11.1 'Scenic Amenity'. Within these areas, only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan.
- Policy L-P-3 To safeguard the scenic context, cultural landscape significance, recreational/tourism amenities, and environmental amenities of the County's coastline from inappropriate development, save for strategic infrastructure provision of overriding regional or national public interest. This policy will be implemented by the Council in so far as same can be practicably and reasonably achieved within the context of Strategic Infrastructure Projects including, but not restricted to, the TEN-T Priority Route Improvement Project, Donegal, the Bridgend to County border project scheme, the Buncrana Inner Relief Road and Greenways.

Policy AYH-P-1 as relates to the conservation and protection of archaeological heritage.

Chapter 16 Technical Standards

5.2. National Policy

Ireland's National Biomethane Strategy (May, 2024)

The National Biomethane Strategy sets out the necessary policy and regulatory measures, and provides a roadmap, to developing a biomethane industry of scale in Ireland. The development of the Strategy focused on a framework of five interlinking pillars seen as critical to target delivery:

- sustainability;
- demand for biomethane;
- bioeconomy and the circular economy;
- economics of biomethane; and
- enabling policy requirements.

Each pillar has been aligned with twenty-five key strategic actions. Each action looks to address the challenges and support the opportunities anaerobic digestion and biomethane production has to offer.

The Government is committed to supporting delivery of up to 5.7TWh of indigenously produced biomethane by 2030.

5.3. Climate Action Plan, 2025 [CAP 25]

This is the third Climate Action Plan to be prepared under the Climate Action and Low Carbon Development (Amendment) Act 2021.

In relation to biomethane, the Plan states that, to further support the decarbonisation of the heat sector, Government has agreed to the introduction of the Renewable Heat Obligation (RHO), with scheme parameters now being finalised for approval. The RHO will obligate suppliers over a certain threshold to ensure a proportion of the energy they supply is renewable, and it will incentivise the production of indigenously produced biomethane, in line with the National Biomethane Strategy published in 2024.

It is also stated that grant aid has been launched towards the development of the biomethane sector and this is expected to drive expansion of the anaerobic digestion sector towards the target of 5.7 TWh by 2030 funding of €40 million has been secured to further the ambition of the sector. As energy policy lead, DECC will take responsibility for this second round of capital funding from 2026.

Of note is that the Climate Action Plan 2025 builds upon last year's Plan (CAP 24) by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings and it should be read in conjunction with Climate Action Plan 2024. As such CAP 24 also remains relevant.

5.4. Climate Action Plan 2024

The Government of Ireland's Climate Action Pan was first published in June 2019 by the Department of Communications, Climate Action and Environment. The Climate Action Plan 2024 (CAP24) is the third annual update to Ireland's Climate Action Plan 2019. This plan is prepared under the Climate Action and Low Carbon Development (Amendment) Act 2021, and following the introduction, in 2022, of economy-wide carbon budgets and sectoral emissions ceilings.

The Plan states that decarbonised gases such as biomethane will be a critical component for Ireland's energy system.

The Plan's KPIs include a 2025 target for 1 TWh of biomethane to be produced and 5.7 TWh to be produced by 2030. The Plan KPIs specify at least 1 TWh consumption of zero emission gas for industrial heating by 2025 and 2.1 TWh by 2030.

The Plan KPIs specify 0.6 TWh consumption of biomethane in the built environment (residential and commercial) by 2025 and 1.1 TWh by 2030.

5.5. Climate Action and Low Carbon Development (Amendment) Act 2021

This Act amends the Climate Action and Low Carbon Development Act 2015. It sets out the national objective of transitioning to a low carbon, climate resilient and environmentally sustainable economy in the period up to 2050. The Act commits us, in law, to a move to a climate resilient and climate neutral economy by 2050. An Bord Pleanála is a relevant body for the purposes of the Climate Act. As a result, the obligation of the Board is to make all decisions in a manner that is consistent with the Climate Act.

Ireland's 4th National Biodiversity Action Plan 2023–2030

Ireland's 4th National Biodiversity Action Plan (NBAP) sets the national biodiversity agenda for the period 2023-2030 and aims to deliver the transformative changes required to the ways in which we value and protect nature. The NBAP will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:

- Objective 1 Adopt a Whole of Government, Whole of Society Approach to Biodiversity,
- Objective 2 Meet Urgent Conservation and Restoration Needs,
- Objective 3 Secure Nature's Contribution to People,
- Objective 4 Enhance the Evidence Base for Action on Biodiversity
- Objective 5-Strengthen Ireland's Contribution to International Biodiversity Initiatives.

Project Ireland 2040: National Planning Framework, First Revision (April 2025)

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 and the sustainable management of waste resources. It contains a number of relevant National Strategic Outcomes (NSOs) and National Policy Objectives (NPOs) which can be summarised as follows:

Section 9.2 Resource Efficiency and Transition to a Neutral Carbon Economy refers specifically to Biomethane:

"Biomethane is a carbon-neutral renewable gas made from farm and food waste through a process known as anaerobic digestion. A National Biomethane Strategy has been published63 which requires the development of policies with the primary objective of delivering the ambitious target of producing 5.7 TWh of indigenous biomethane by 2030. It is estimated that over 80% of biomethane will be produced from grass silage and cattle slurry. This will require grass from 120,000ha (3% of total agricultural area) to produce the required feedstock. To meet Ireland's target of 5.7 TWh of biomethane by 2030, a large number of anaerobic digestion facilities will need to be developed, alongside the related infrastructure necessary to support these facilities".

In relation to heating it is stated: "The National Heat Study Report 2022 identified that a combination of district heating, biomethane and heat pumps in homes, businesses and industry will play avital role in fast decarbonisation"

Section 5.4 'Planning and Investment to Support Rural Job Creation' states that *inter alia "*there are opportunities from a climate transition perspective for the diversification of farming enterprises to include a focus on areas such as biomethane production and forestry".

National Strategic Outcome 8: Transition to a Carbon Neutral and Climate Resilient Society states *inter alia* that the Climate Action and Low Carbon Development (Amendment) Act enacted in 2021 commits to a binding target to reduce greenhouse gas emissions by 51% and increase the share of electricity generated from renewable sources to 80% over the decade (2021 – 2030), and to achieve net-zero emissions no later than 2050 and the diversification of our energy production systems away from fossil fuels and towards green energy such as wind, wave, solar and biomass, together with smart energy systems and the conversion of the built environment into both generator/consumer of energy and the electrification of transport fleets require the progressive and strategic development of a different form of energy grid.

National Strategic Outcome 9: Sustainable Management of Water and other Environmental Resources: states that *inter alia* effective waste management will require biological treatment Biological treatment and increased uptake in anaerobic digestion with safe outlets for bio stabilised residual waste

National Policy Objective 32: Enhance the competitiveness of rural areas by supporting innovation in rural economic development and enterprise through the diversification of the rural economy into new sectors and services, including ICT-based industries and those addressing climate change and sustainability.

National Policy Objective 30: Facilitate the development of the rural economy, in a manner consistent with the national climate objective, 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 biodiversity and the natural landscape and built heritage which are vital to rural tourism.

National Policy Objective 67: Support the circular and bio economy including in particular through greater efficiency in land and materials management, promoting the sustainable re-use and refurbishment of existing buildings and structures while conserving cultural and natural heritage, the greater use of renewable resources and by reducing the rate of land use change from urban sprawl and new development.

National Policy Objective 70: Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a climate neutral economy by 2050.

National Policy Objective 76: Sustainably manage waste generation including construction and demolition waste, invest in different types of waste treatment and support circular economy principles, prioritising prevention, reuse, recycling and recovery, to support a healthy environment, economy and society.

EU Water Framework Directive 2000/60/EC:

The EU Water Framework Directive aims to improve water quality and applies to all water bodies. The Directive runs in six-year cycles with its third cycle running from 2022 to 2027. It commits Member States to preventing deterioration and achieving water quality of at least 'good status' in rivers, lakes, groundwater, estuaries and coastal waters, by 2027 at the latest. The Directive has been given effect by the Surface Water and Groundwater Regulations.

5.6. Regional Policy

Regional Spatial and Economic Strategy (RSES) for the Northern and Western Region 2020-2032

The Regional Spatial and Economic Strategy (RSES) provides a high-level development framework for the Northern and Western Region that supports the implementation of the National Planning Framework (NPF) and the relevant economic policies and objectives of Government.

Relevant Regional Policy Objectives include:

RPO 4.20 supports the development of the bio-economy for energy production, heat and storage distribution.

RPO 4.27 supports the National Policy Statement on the Bioeconomy and opportunities for the circular resource-efficient economy.

RPO 4.28 supports the potential creation of appropriately scaled local multifeedstock bio-refining hubs.

RPO 8.7 supports innovative partnerships extending the gas network in the region, including the potential for gas to grid injection facilities along with anaerobic digestion facilities.

5.7. Natural Heritage Designations

5.7.1. The closest designated sites are Lough Swilly SAC (Site Code 002287) and Lough Swilly SPA (Site Code 004075), which are located c2.7km west of the site, and c2.2km west of the site, respectively. Port Lough pNHA is located c6.3km to the north-east of the site.

6.0 Environmental Impact Assessment

- 6.1.1. I have carried out a Pre-Screening for Environmental Impact Assessment, as per Form 1 on file (dated 8th January 2025). A copy of same is attached as Appendix 3 of this report. Within same, I have determined that there was insufficient information on the file to determine if the proposed development fell within one of a number of the categories of development as set out in Schedule 5, Parts 1 and 2 of the Planning and Development Regulations 2001 (as amended).
- 6.1.2. Furthermore, having carried out a Preliminary Examination (as per Form 2 on File, dated 8th January 2025, a copy of which is attached as Appendix 3 of this report), I have concluded that there was significant and realistic doubt regarding the likelihood significant effects on the environment and that Schedule 7A Information was required to enable a EIA Screening Determination to be carried out.
- 6.1.3. Subsequently, and under the provisions of section 132 of the Planning and Development Act, 2000 (as amended), the Board sought Further Information from the applicant, by way of letter dated 15th January 2025, a copy of which is on file for

the Board's perusal. In summary, the Board requested information as relates to *inter alia* EIA, in particular, an EIA Screening Report which included Schedule 7A information. The Board also requested that the applicant consider the project in light of a number of potentially relevant categories of development as set out in Schedule 5, Part 1 and 2 of the Planning and Development Regulations 2001 (as amended).

- 6.1.4. I would note that this information was received on 11th February 2025 and contained the following information:
 - A Cover Letter dated 7th February 2025 which included the following attachments:
 - An EIA Screening Report
 - Legal Opinion from Brendan Slattery SC, McCann FitzGerald
 - CoMAH Report.
- 6.1.5. I have considered the totality of the documentation on file, including the Further Information submitted, and I have carried out an EIA Screening Determination (see Appendix 4 Form 3 – EIA Screening Determination). Within same, I have noted that that the project is not of a class that would require a mandatory EIA, and furthermore, the project falls below any relevant thresholds as set out in Schedule 5, Parts 1 and 2 of the Planning and Development Regulations 2001, as amended, for the reasons and considerations as set out below.

Consideration of Potentially Relevant Classes

Schedule 5, Part 1 Type 6 - Integrated chemical installations, i.e. those installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are-

(a) for the production of basic organic chemicals,

- (b) for the production of basic inorganic chemicals,
- (c) for the production of phosphorous, nitrogen or potassium based fertilisers (simple or compound fertilisers),
- (d) for the production of basic plant health products and of biocides,

(e) for the production of basic pharmaceutical products using a chemical or biological process,

(f) for the production of explosives.

<u>Comment</u>

- 6.1.6. I would note that the Planning Authority, as set out in their response to the first party appeal, is of the view that the proposed development may fall within this project class, and the PA have stated that they are looking to the Board for a determination on whether or not the proposed development is development that is prescribed for mandatory EIA, with specific reference to this class of project. Following the submission of the applicant's Further Information, I would note that the view of the Planning Authority on this issue would appear to remain unchanged, noting the submission from the PA (dated 11th March 2025) and within which is it stated that the project has characteristics of an 'Integrated Chemical Facility' (with reference to the processes involved, the production units and the volume of outputs of the facility).
- 6.1.7. In the original appeal submission (as received on 8th August 2023), the First Party appellants state that it is clear the application is not subject to Type 6, Part 1 of Schedule 5, as this is prescribed for an integrated chemical installation i.e. those installations for the manufacture on an industrial scale of substances using chemical conversion processes. The applicant is of the view that this has already by assessed and dismissed by ABP for anaerobic digestion plant appeal in Kerry (ABP 309122-21). The appeal submission contains a Legal Opinion from Oisín Collins, SC. In summary, this sets out that the primary purpose of the development is a facility for the generation of energy by means of Biogas. It is further stated that the facility is not a facility for the production of chemicals and that the primary activity is energy production, not chemical production. It further set out that the amount of chemical by-products is of a small volume.
- 6.1.8. I refer the Board to Form 1 EIA Pre-Screening on file (dated 8th January 2025) for my initial consideration of this class of development, and as set out therein, I was of the view that there was insufficient information on file to determine if this class applied to the project here, notwithstanding the initial documentation submitted.
- 6.1.9. Further Information has now been submitted which includes a legal opinion (from Brendan Slattery SC, McCann FitzGerald, dated 10th February 2025) which considers *inter alia*, the relevance of this class of development (as well as other

potentially relevant classes of development). Within same, reference is made to a recent High Court judgement, Halpin V An Bord Pleanála (2019) IEHC 352, in which the High Court rejected an argument that a biogas plant with feedstock of cow slurry, hen manure and silage was a chemical installation. Reference is also made to 2 no. linked referrals to the CJEU (C-196/16 and C-197/16 Commune di Corridonia and Others) in which biogas plants were considered projects within Annex II of the EIA Directive rather than Annex 1. Reference is also made to correspondence to the applicant from the EPA, which did not suggest that the biogas plant was an Integrated Chemical Installation. In relation to the term 'Industrial Scale' it accepted that this is not defined in the relevant EU Guidance Document¹. The legal opinion sets out that this same guidance document addresses biogas projects in express terms and does not refer to chemical installations. Notwithstanding, and while it is acknowledged the biogas is produced for commercial purposes, it is stated that the biogas and biomethane, and associated products, produced as outputs, are not produced on an Industrial Scale, and reference is made to the volumes of product produced on the site.

- 6.1.10. I would accept that the judgements referred to above have not determined that biogas plants are Integrated Chemical Installations, and I would accept that the EU Guidance document, as referred to above, does not explicitly consider that biogas plants fall within such a category. I would note also that the Board have not previously considered such projects to fall into the category of Integrated Chemical Installations when considering other similar biogas projects².
- 6.1.11. Notwithstanding, should the Board be minded to view this biogas project as an 'Integrated Chemical Installation', a key consideration in my view, and further to my considerations in the Form 1 Pre-Screening document of 8th January 2025, which is on file, is whether the outputs of the plan proposal can be defined as 'industrial' in scale. In relation to same, I refer to the above mentioned EU guidance document, wherein it is stated that it is of importance to take account of the potential environmental impact of a production sequence when determining if an activity can be defined as 'industrial'. The applicant has now submitted Schedule 7a Information,

¹ Interpretation of definitions of project categories of annex I and II of the EIA Directive

https://op.europa.eu/en/publication-detail/-/publication/e7f9c73c-86ba-11ef-a67d-01aa75ed71a1

² For example, Appeal Refs APB-309122-21; ABP 315040-22 & ABP=313975-22.

and in this regard, I now have sufficient information on file in order to carry out an EIA Screening Determination (see Appendix 4 of this report) which has considered all aspects of the proposal, including that of the production sequence. I have determined therein that the development would not be likely to have significant effects on the environment. As, such I am satisfied, given same, the activity proposed here would not be defined as 'industrial', notwithstanding that there are other elements of the project that could be viewed as industrial in nature or appearance (as considered in the Form 1 Pre-Screening document of 8th January 2025).

- 6.1.12. In relation to the volume of outputs, the applicants have reiterated the output volumes of the plant³, and have stated that the volumes of same could not be considered 'industrial in scale'. However, I am not of the view that there is sufficient comparative information on file to determine if the volumes produced could be considered 'industrial' in scale. However, given my conclusions above, I am satisfied that the production process will not give rise to likely significant effects, and therefore it can be concluded that the project is not 'industrial' in scale.
- 6.1.13. In conclusion then, and while the project does contain some elements that are relevant to the category under consideration here, key considerations, to my mind, are the relevant judgements referred to the in the applicant's legal opinion of 10th February 2025, and as summarised above, which have not categorised biogas projects as 'Integrated Chemical Installations'. Also of relevance, and as referred to in the applicant's legal opinion of 10th February 2025, are the contents of the relevant EU Guidance, as considered above, which does not refer to this particular category as being of relevance to biogas projects. I would also reiterate that the Board have not previously considered such biogas projects as 'Integrated Chemical Installations'.
- 6.1.14. Notwithstanding, and noting that each project is considered on its merits, and noting the opinion of the Planning Authority on this particular project, and should the Board be of the opinion that the project is in fact, an Integrated Chemical Facility, I am of the view that it is not industrial in scale, having regard to the potential environmental effects of same.

³ Outputs per day: Biomethane (99.9% CH4): 7,680 m³, CO2: 6100 m³, Total Digestate: 96.4 m³, Organic Fertiliser Liquid 0.5 m3, Organic Fertiliser Solid 12.8 m³.

6.1.15. I conclude therefore that the project does not fall within the category of Schedule 5, Part 1 Type 6 - Integrated Chemical Installations.

Other Relevant Categories

Schedule 5, Part 1, Type 21. Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200,000 tonnes or more. –

Comment:

6.1.16. The applicant has clarified in the Further Information submission of 11th February that the proposed development is designed so that the total biogas volume stored on site at any given time will be 6.146 tons. As such, this category is not applicable here.

Schedule 5, Part 2, Type 6

(a) Installations for treatment of intermediate products and production of chemicals using a chemical or biological process.

d) Storage facilities for petrochemical and chemical products, where such facilities are storage to which the provisions of Articles 9, 11 and 13 of Council Directive 96/82/EC6 apply.

Comment:

- 6.1.17. The applicant's legal opinion (dated 10th February 2025) has set out that the above project type is not applicable here noting that the project is not a installation for the production of chemicals and, even if the Board were to consider it as one, the proposed project is not an installation for the treatment of intermediate projects, and the 'and' which appears above in part (a) should be considered conjunctively rather than disjunctively, citing case law relating to same.
- 6.1.18. It is further set out that for part (d) to apply, the provisions of Articles 9, 11 and 13 of Council Directive 96/82/EC6 must apply. The applicant's legal opinion notes that Council Directive 96/82/EC was amended and subsequently repeated by Directive 2012/18/EU (the "Seveso III" Directive. This Directive was given effect in Ireland by the Chemicals Act (Control of Major Hazards Involving Dangerous Substances) Regulations S.I. 209 of 2015 (the CoMAH Regulations). The quantities of substances stored and produced on site have been shown to be substantially below that where the CoMAH regulations apply (as per the CoMAH Report submitted by the applicant

on 11th February 2025), and as per the considerations in Section 10 of this Inspector's Report). As such part (d) also does not apply here.

Schedule 5, Part 1, Type 9 Waste disposal installations for the incineration, chemical treatment as defined in Annex IIA to Directive 75/442/EEC3 under heading D9, or landfill of hazardous waste (i.e. waste to which Directive 91/689/EEC4 applies).

Schedule 5, Part 1, Type 10 Waste disposal installations for the incineration or chemical treatment as defined in Annex IIA to Directive 75/442/EEC under heading D9, of non-hazardous waste with a capacity exceeding 100 tonnes per day.

Comment

- 6.1.19. The applicant's cover letter as submitted on 11th February 2025 states that there is no waste disposal installation for incineration and there is no chemical treatment as defined in Annex IIA to Directive 75/442/EEC. I note also the legal opinion on file (dated 10th February) which sets out that none of the proposed feedstocks can be considered waste (i.e. neither the grass silage and crop inputs, nor the slurry or farmyard manure species). The central argument made in the submission is that the feedstock can only be considered waste where it:
 - (a) Satisfies the definition of "waste" under section 4(1) of the Waste Management Act, 1996 (as amended) ("the Waste Acts")
 - (b) It is not material excluded from the Waste Acts under Section 3 of the Waste Act.
- 6.1.20. It is further clarified that waste is defined to mean 'any substance or object which the holder discards or intends or is required to discard'. It is stated that as such, feedstock is no waste, where it is neither discarded or required to be discarded.
- 6.1.21. In relation to the crop element of the feedstock input, it is set out that this is clearly a product and not waste. In relation to the 'farmyard manure and animal slurry', reference is made to CJEU judgements (Case-121/03 & C-113/12) where it was found that slurry was not waste, as in both cases the person in question (i.e. the farmer) were not seeking to discard it, and therefore was not waste.
- 6.1.22. Reference is also made to section 3(1)(g) of the Waste Act, which states that the Act shall not apply to "faecal matter, if not covered by subsection (2)(b), straw and other natural non-hazardous agricultural or forestry material used in farming, forestry or for

the production of energy from such biomass through processes or methods which do not harm the environment or endanger human health".

- 6.1.23. Further reference is made to section 3(2)(b) of the Act, where is it stated that there is a similar exclusion for animal by-products, except those intended for use in a biogas or composting plant. It is contented that this section does not apply to the manure and slurry in this instance.
- 6.1.24. In relation to the issue of waste, the PA submission on the Further Information (dated 11th March 2025) notes that the PA is of the view that if the operator of an AD plant is renumerated for the intake of organic matter by the producer of same it should be considered waste. The PA accepts that farmyard manure and faecal matter slurry from ruminants are not wastes.
- 6.1.25. In relation to this issue, I would note that in similar biogas projects⁴, the Board has accepted that the grass silage and crop inputs are not waste, but has viewed the slurry and farmyard manure inputs of the biogas production process as 'waste', with reference to Article 2(2)(b) of the Waste Framework Directive (see also further discussion of same in Form 1 Pre-Screening document on file dated 8th January 2025). The equivalent section in the Waste Act, 1996 as amended, is section 3(2)(b) as referred to above. The reason for this is that the Board has viewed such farmyard manure and slurry as 'animal by products', and if same is used in a biogas plant, it is not excluded from the provisions of the Waste Act, 1996 (as amended), and can therefore be considered 'waste'.
- 6.1.26. This approach is supported by the provisions of the Animal by-product Regulations 1069/2009 where manure is a Category 2 Animal By-product.
- 6.1.27. For instance, I would note that the Board has considered an application for a similar type of development (a biogas production plant) in Dromkeen West, Causeway, Co. Kerry (ABP Ref 315040-22). In this instance, feedstocks were of a similar nature to that proposed here (grass silage, maize silage, sugar beet and cattle slurry), with similar outputs (biogas, digestate) and in the consideration of same, and in adopting the Inspector's report on same, it was determined that the cattle slurry was

⁴ For example, Appeal Refs APB-309122-21; ABP 315040-22 & ABP=313975-22.

categorised as "animal by-product" as per Article 2(2)(b) of the Waste Framework Directive (and the volume of same fell below the relevant 25,000 tonne threshold).

6.1.28. Notwithstanding, I am satisfied that, even if the slurry and manure inputs are considered to be 'waste', none of these inputs are subject to incineration or chemical treatment, or landfill, and as such this category is not applicable here.

Schedule 5, Part 2, Type 3 Energy Industry

(a). Industrial installations for the production of electricity, steam and hot water not included in Part 1 of this Schedule with a heat output of 300 megawatts or more.

(b) Industrial installations for carrying gas, steam and hot water with a potential heat output of 300 megawatts or more.

(c) Installations for surface storage of natural gas, where the storage capacity would exceed 200 tonnes.

Comment

6.1.29. I am of the view that, given the considerations above, the proposal is not defined as 'industrial', and I am satisfied therefore that the above category does not apply. Notwithstanding, and if the Board were of the view that it does apply, I would note that the CHP on site would generate an electrical and heat output. I would note that the CHP Plant on site has an electrical output of 548 kW and thermal output of 310kW and therefore falls below the threshold of part (a). In relation to part (b) the applicant has clarified in the Further Information submission that there will be 2 no. gas transport trailers on site which have the capacity to carry biomethane. I would accept that the potential heat output from same would fall below the threshold as set out in part (b) above. In relation to part (c), the applicant has clarified as part of the Further Information submission that the total volume of gas stored on the site (biogas 6.146 tonnes, biomethane 6.57 tonnes) falls below the threshold above.

Schedule 5, Part 2 Type 1(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.

Comment

6.1.30. The project could be considered to be a restructuring of a rural landholding, and there is recontouring of the site proposed, with some boundary hedgerow removal. However, the overall area of the site is below the 5 Ha threshold (noting the site area is 4.7 Ha). Other relevant thresholds are not exceeded.

Schedule 5, Part 2 10.(a) Industrial estate development projects, where the area would exceed 15 hectares.

<u>Comment</u>

6.1.31. The proposal is not for the development of an industrial estate, and even it where considered the proposal was industrial in nature or form, the site area of 4.7 ha is below the threshold of 15 ha.

10.(b)(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

<u>Comment</u>

6.1.32. The development could be considered urban in nature, notwithstanding the rural location of the site. The relevant threshold therefore is 20 ha. The site area of 4.7 ha is below this threshold.

Schedule 5, Part 2, Type 15 Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

<u>Comment</u>

6.1.33. In relation to same, I refer the Board to the EIA Screening Determination (as per Appendix 4 of this report). I have determined therein that the development would not be likely to have significant effects on the environment. As such, I am satisfied that the above category does not apply in this instance. 6.1.34. I refer the Board to Form 1 Pre-Screening Document on file (dated 8th January 2025, a copy of which is attached as Appendix 3 of this report) which contains my consideration of any other relevant categories.

Conclusion in relation to EIA

6.1.35. I would refer the Board to the EIA Screening Determination as contained in Appendix4 of this report. Therein it is stated that:

Having regard to: -

a) The nature and scale of the project, which is not of a class that would require a mandatory EIA, and falls below any relevant thresholds as set out in Schedule 5, Parts 1 and 2 of the Planning and Development Regulations 2001, as amended,

b) The relevant policies and objectives in the Donegal County Development Plan 2024-2030, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC),

c) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations,

d) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage, and Local Government (2003),

 h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended,

i) The Natura Impact Statement, submitted pursuant to the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC),

j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Preliminary Construction Environmental Management Plan, the Environment Report including those reports as contained within the appendices of same including the, Ornithological Report, the Water Management Plan, the Air Quality Impact Assessment Report, the Odour Management Plan, the Noise Impact Assessment Report, the Traffic and Transport Assessment Report and the Archaeological Report,

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In so doing, the Board concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

7.0 Appropriate Assessment

7.1.1. See Appendix 4. Therein I have concluded the following:

Following 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 Lough Swilly SPA, Lough Swilly SAC or any other European site, in view of the Conservation Objectives of these sites.

The proposed development will not prevent or delay conservation objective set for the screened in European Sites.

My conclusion is based on a complete assessment of all aspects of the proposed project as provided in the Natura Impact Statement and there is no reasonable doubt as to the absence of adverse effects.

This conclusion is based on:

- a full and detailed assessment of all aspects of the proposed project, including proposed mitigation measures,
- an assessment of in-combination effects with other plans and projects including existing statutory plans, historical projects, current / permitted proposals and future plans, and
- there being no reasonable scientific doubt as to the absence of adverse effects on the integrity of these European sites.

8.0 The Appeal

8.1. Grounds of Appeal

8.1.1. A First Party Appeal against the decision of the Planning Authority to refuse permission was received on 8th August 2023. The Grounds of Appeal are set out below.

General

- Development of an agricultural-based anaerobic digestion (AD) industry to produce renewable energy biomethane gas is a key priority of the Irish Government and European Union.
- Climate Action and Low Carbon Development (Amendment) Bill 2021 set out the legal framework/requires a 7% annual average reduction in greenhouse gases as first set out in the National Energy and Climate Plan (NECP)/also a target of achieving 34% share of renewable energy in energy consumption by 2030.
- Requires a cut in agricultural emissions/achieved through a range of technologies including AD
- Reference is made to the Climate Action Plan/development of an AD sector/150-200 modern AD plants will need to be developed by 2030
- AD industry will be based on an agricultural model, where AD plants will be supplied by mainly agricultural biomass such as grass silage and animal slurry
- Will improve water quality and reduce the use of chemical fertilizers
- National Planning Framework and National Development Plan 2018-2027 are supportive of AD/NPO 21/NPO23/NPO53
- RSES is supportive of AD
- REPowerEU Plan sets out a target for the production of 35 billion cubic metres of biomethane by 2030
- Article 23 of the Renewable Energy Directive mandates an increase in the share of renewable energy in the heating and cooling sector.

Reason for Refusal No. 1 (Process Inputs and Outputs and associated impacts from same)

- A detailed specification of the types of materials what would be used to feed the proposed digesters is set out in Chapter 3 of the Environmental Report which accompanies the application
- Manure, crops and recycled liquid are the main inputs to the plan
- There is no ambiguity in relation to the inputs and outputs from the proposed plant
- Is demonstrated in the Environmental Report that there would be no significant impact on residential amenity, the environment or Natura 2000 sites
- Concluded that the proposed will meet the requirements of the [previous]
 Development Plan

Reason for Refusal No. 2 (Transport)

- Chapter 12 of the Environmental Report considers traffic impacts/Detailed Traffic and Transport Assessment
- Concluded that there will be no queues and minimal delays during the development's peak hours for both scenarios, no development and with development.
- Proposed that the local road would be upgraded to ensure the local road network would be suitable to carry traffic associated with the proposed development
- Will collaborate with the Planning Authority to develop a detailed traffic management plan for the proposed development
- Will be funded through a special development contribution
- A roads report is attached as an appendix (Appendix II)

Reason for Refusal No. 3 (Surface Water/Storm Water)

- Clearly demonstrated that process water is completed recycled within the manufacturing operation which is an enclosed loop system
- Chapter 7 of the Environmental Report addresses surface water/Refers to water Management Plan included in Appendix III

- Surface water run-off will be treated to removed any silt and contaminants that may potentially be present before it is recycled or discharged in a controlled manner.
- Intend to apply for a Water Discharge Licence/All water leaving the site will be in compliance with the Surface Water Regulations (SI 272 of 2009, as amended)
- Proposed to monitor outflow/discharge water in real time/electronic monitoring
- Excess water will be held in an attenuation lagoon, with capacity for a 1 in 100 yr storm event
- Will not give rise to flooding
- Cow slurry and manure is farm by-product but not accepted as such by the Planner's Report
- Made clear that the primary feedstock was silage and special grass sward
- Secondary feedstock are farm by-products namely manure and cow slurry
- Waste Framework Directive excludes such products/they are not waste

Other Issues

- Planner's report has confused the material with 'biowaste'/this is defined under Article 3 of the Waste Framework Directive
- Biowaste is not being proposed here
- A planning condition could be imposed to preclude the use of biowaste
- References to the Connaught Ulster Waste Management Plan in the application were ill founded given the feedstocks are not waste
- Model of economic feasibility was not produced as this was considered financially sensitive information and would not be made public
- Appropriate Assessment
- Planner's Report is based on a misunderstanding/there is no waste generated
- Reference is made to the previous County Development Plan and the proposal's compliance with Policy EP-P-14
- EIA Screening legal opinion enclosed in relation to same.
Encl: Notice of refusal; Roads Report; Copy of Planning Report; Legal Opinion

8.2. Planning Authority Response

- 8.2.1. A response from the Planning Authority, requested under section 132 of the Planning and Development Act, 2000 (as amended), was received on 18th October 2023. This is summarised as follows.
 - Application used the terms 'animal slurry' and 'farm by-products' which have a far broader definition than 'animal manure'
 - Concerns in relation this ambiguity were raised at pre-planning stage
 - PA welcomes the switch to less ambiguous terminology
 - Nature of the substrate used greatly affects the odours emitted from the byproduct fertilizer/to grant permission would have undermined rights of public participation in the planning application process.
 - Has reservations in relation to the Senior Counsel Legal Opinion/'appears to side-step critical wording'
 - PA looks to the Board for a determination on whether or not the proposed development is development that is prescribed for mandatory EIA, with specific reference to Development Type 6 of Part 1 of Schedule 5 of the Planning and Development Regulations, 2001 (as amended).
 - Development of the type originally proposed should be considered a development type that this mandatorily prescribed under Part 1 of Schedule 5 of the Planning and Development Regulations 2001 (as amended)/would come within Development Type 6 'Integrated Chemical Installation/the nature of the development appears to strongly resonate with the explicit wording of the description of Development Type 6

8.3. Observations

8.3.1. None.

8.4. Further Responses

8.4.1. A First-Party response to the Planning Authority's submission of 18th October 2023 was received on 13th November 2023.

Ambiguity of Language

- Never any ambiguity in the language used in the application
- Main grounds of refusal appear to be based on the issues in relation to the potential use of 'waste' and that the process was subject to an assessment as an 'Integrated Chemical Installation'

Definition of waste/end use of the products from the proposed plant

- Reference is made to the Nitrates Directive Livestock manure under the Waste Framework Directive and other relevant sections of key EU legislation (attached in Appendix 2 of submission)
- 2008 Waste Framework Directive Article 2(1)(f) unconditionally excludes faecal matter, If not covered by paragraph 2(b)
- Within the Nitrates Directive (and elsewhere in waste/by-product legislation) criteria are set out for deciding if certain matter is a by-product; failure to meet the by-product criteria means the matter is a waste by default/4 no. criteria are set out/farmyard slurry and manure meet the criteria
- Letters attached from Teagasc, Irish Farmers Association, Irish Bioenergy Association, Irish Bioenergy Association, European Biogas Association and Renewable Gas Forum Ireland/state slurry and manure are not waste and can be classified as by-products
- The above criteria can also be applied to the digestate which can be used as an organic fertiliser

<u>EIA</u>

 Clear the application is not subject to Type 6, Part 1 of Schedule 5 (Development for the Purposes of Part 10) of the Planning and Development Regulations 2001 (as amended)

- This is prescribed for an integrated chemical installation i.e. those installations for the manufacture on an industrial scale of substances using chemical conversion processes
- This has already by assessed and dismissed by ABP for anaerobic digestion plant appeal in Kerry (ABP 309122-21)
- Dealt with by Senior Counsel opinion already submitted
- Prime objective of the proposed plant is the production of renewable energy biomethane gas/other products are also manufactured as by-products such as C02m, organic fertiliser and small quantity of Ammonia Sulphate Solution
- No anaerobic digestion plant in Ireland as been categorised as 'integrated chemical installation'
- Encl: ABP Correspondence/Donegal County Council submission; Notes on Nitrates Directive and other EU legislation; Letters of support from Teagasc, Irish Farmers Association, Irish Bioenergy Association, Irish Bioenergy Association, European Biogas Association and Renewable Gas Forum Ireland.

9.0 Further Information

- 9.1.1. Under the provisions of section 132 of the Planning and Development Act, 2000 (as amended) the Board sought the following information from the applicant, by way of letter dated 15th January 2025, a copy of which is on file for the Board's perusal.
- 9.1.2. In summary, and as per the discussion in Section 6 of this report, the Board requested information as relates to EIA, in particular, an EIA Screening Report which included Schedule 7A information. The Board also requested that the applicant consider the project in light of a number of potentially relevant categories of development as set out in Schedule 5, Part 1 and 2 of the Planning and Development Regulations 2001 (as amended).
- 9.1.3. The Board also requested clarification from the applicant in relation to any potential EIA Licencing requirements.
- 9.1.4. I would note that this information was received on 11th February 2025 and contained the following information:

- A Cover Letter dated 7th February 2025 which included the following attachments:
 - An EIA Screening Report
 - o Legal Opinion from Brendan Slattery SC, McCann FitzGerald
 - CoMAH Report.
- 9.1.5. The Board was of the view that the it was appropriate that relevant parties could make submissions or observations in relation to the Further Information received and the information was circulated to the following parties by way of letter dated 20th February 2025 (a copy of which is on file) with observations sought on same in accordance with section 131 the Planning and Development Act, 2000 (as amended).
 - Environmental Protection Agency
 - Donegal County Council

9.2. Additional Responses Received

- 9.2.1. A response to the Further Information Received by the Board was received from Donegal County Council on 11th March 2025. This is summarised as follows:
 - Refers to the Legal Opinion as submitted by the applicant on 11th February 2025.
 - PA refers to relevant judgement Halpin V An Board Pleanála (2019) IEHC 352.
 - Question of whether the project was an Integrated Chemical Facility was not given extensive consideration.
 - The term 'Integrated' was defined by the Judge in question.
 - This application clearly shows the chemical processes are a fundamental part of anaerobic digestion (Plate 3.1, Page 22 of the Environmental Report refers).
 - Clearly shows that the proposed development constitutes a series of interconnected production units.
 - Quantities of outputs are sufficient to come under the definition of 'industrial scale'.
 - DCC agrees that it may be prudent than an EIA Screening is sought.

- If ABP decides that an EIA is not mandatory, the Planning Authority would like to refer to the applicant's assurances in relation to proposed feedstocks.
- Acknowledged that the applicant has clearly stated what feedstock would be used and what would not be used.
- Concern remains that the proposed development could be used for treatment and recovery of waste with little or no modification at a later date.
- Potential of for odours, soil and groundwater contamination.
- Requests ABP determination on whether or not planning permission would be required to introduce waste into feedstocks.
- PA contends that if the operator of an AD plant is renumerated for the intake of organic matter by the producer of same it should be considered waste.
- PA accepts that farmyard manure and faecal matter slurry from ruminants are not wastes.
- EIA Screening Report screens out the likelihood of significant effects on the environment.
- Legal opinion appears to be at variance with this position.
- PA is satisfied that the proposed development where (1) Feedstocks are as stated in the appeal statement (Dated 8th August 2023) (2) Comprehensive suite of mitigation measures are identified (3) development is carried out in accordance with any permission with robust and enforceable conditions.

9.3. Additional Consultation (EPA) and Summary of Response Received

- 9.4. Under section 131 of Planning and Development Act, the Board also sought the views of the Environmental Protection Agency (by way of a letter dated 18th February 2025) on the following issues
 - Need for an EPA Licence
 - Views of the EPA on requirement for an EIA
 - Views of the EPA on environmental matters of relevance to the appeal.
- 9.4.1. A response from the EPA was received in relation to the above request on 18th March 2025 and is summarised as follows:

- Not possible to determine from the planning documentation if the proposed activity will require a licence from the EPA
- Applicant has not contacted the EPA for a determination in this regard/EPA have not received a licence application
- Applicant should contact the EPA so a determination may be made
- As it is unclear if the activity requires a licence, observations on whether an Environmental Impact Assessment (EIA) is required for the development have not been provided/where the activity requires a licence from the EPA, observations on determining whether EIA is required can then be requested.
- If a licence is required, and EIA is required, consultation on the planning application, licence application, and EIAR must be carried out.

10.0 Assessment

10.1. Policy Context/Principle of Development

- 10.1.1. I would firstly highlight to the Board that the Government has published the National Biomethane Strategy (May 2024), noting that the decision of the Planning Authority to refuse permission for predates the publication of same. As such, I would be of the view that the publication of this strategy is a material consideration in the context of this appeal. I would also highlight the fact that the application was considered by Donegal County Council under the provisions of the <u>previous</u> Development Plan (County Donegal Development Plan 2018-2024). The date of the Planning Authority's decision was 13th July 2023. The <u>current</u> Development Plan is County Donegal Development Plan 2024-2030 which was adopted on 16th May 2024 and came into effect on 26th June 2024. As such, I have this considered this appeal under the applicable provisions of the current Development Plan.
- 10.1.2. In relation to the National Biomethane Strategy, this is explicitly supportive of the biogas sector and highlights that Ireland has one of the largest potentials for biomethane production in Europe per capita, due to Ireland's substantial agricultural sector. The Government Target is to produce up to 5.7 Terawatt hours (TWh) of

indigenously produced biomethane by 2030, noting that this has been increased substantially from an original Climate Action Plan 2019 target of 2019 target of 1.6 TWh by 2030. It is noted that biomethane that satisfies the Renewable Energy Directive's life cycle sustainability criteria can be classified as "a zero-carbon rated fuel". It is noted that, without biomethane, Ireland is unlikely to meet its legally binding climate targets. Other benefits set out in reduction in agriculture sector emissions, improved security of supply, stimulation of the rural economy, diversification options for farms and the replacement of chemical fertilisers with biobased fertiliser. The Strategy sets out that the preferred approach to delivery of AD plans is a combination of widespread deployment of smaller AD Plants, and a smaller number of larger, more economic, community-scale facilities. In terms of feedstocks (inputs), the strategy notes that silage should be produced with minimal chemical fertilizers to meet the necessary emissions savings. End users for the biomethane produced are expected to be those industries that utilise high thermal heat processes, the transport sector, the electricity sector and the built environment (as an alternative to fossil gas).

- 10.1.3. In terms of Regional Policy, the Regional Spatial and Economic Strategy (RSES) for the Northern and Western Region 2020-2032 is generally supportive of this type of development, in particular RPO 8.7 which supports innovative partnerships extending the gas network in the region, including the potential for gas to grid injection facilities along with anaerobic digestion facilities.
- 10.1.4. In relation to Development Plan Policy, as set out in the County Donegal Development Plan 2024-2030, Objective E-O-1 seeks to sustainably development a diverse and secure renewable energy supply, and Objective E-O-7 recognises that *inter alia* renewable gas will continue to have a role in the transition to a low carbon society. Policy E-P-2 seeks to facilitate the development of renewable energy projects such as, but not limited to, bioenergy and biomass projects. More generally. Policy ED-P-4 seeks to support Farm Diversification where the diversification scheme is to be run with the agricultural operations of the farm and subject to compliance with part c of the policy (as relates to reuse of farm buildings and scale form and design) and compliance with relevant criteria as set out in Policy ED-P-10.
- 10.1.5. I would note that Policy ED-P-10 relates to commercial developments on the periphery of settlements, and I am not of the view the criteria therein would be

relevant in the context of this proposed development. Policy ED-P-9 is of relevance however, and this states that any proposal for economic development use will be required meet certain criteria relating to design and landscaping, surrounding land uses, impact on landscape, amenity impacts (including noise), capacity of water and potable water infrastructure, impact on surrounding roads and access arrangements, environmental impacts including impacts of emissions and on water quality, and on designated sites, and impacts on cultural heritage. I have considered each of these criteria in the relevant section of this report.

- 10.1.6. I would note that the Planning Authority have not objected to the principle of the proposed development, at this particular location, notwithstanding the 3 no. reasons for refusal (which are considered in detail below).
- 10.1.7. Having regard to the above considerations, I am of the view that the principle of the proposed development is supported by policy at national, regional and local levels. In terms of the location, there is no specific policy requirement to locate developments such as the one proposed here within particular locations (i.e. within the boundaries of existing settlements or within existing industrial/commercial areas). Indeed, it would appear that the nature of the development, and its reliance on agricultural feedstocks, as well as the digestate outputs from same, which are used in land spreading, would appear to favour a rural location with farmland surrounding. Notwithstanding, the location does raise particular issues that require assessment including impact on the character of the rural area, transport issues, amenity issues as well as more general environmental impacts.
- 10.1.8. The below assessment considers firstly the Planning Authority's 3 no. reasons for refusal and, where required by Development Plan policy, other issues are then considered.

10.2. Process Inputs and Outputs and associated impacts from same (Reason for Refusal No. 1)

10.2.1. Reason for refusal No. 1 refers to the 'absence of detailed specifications for the types of materials that would be used as digestate to feed the proposed digesters, with reference to inconsistencies in the planning documents, namely in relation to the ratio of digestate that would be made up of 'farm byproducts', with significant impacts

on a wide area, including on Natura 2000 sites'. (I have considered impacts on Natura 2000 sites in Appendix 1 and Appendix 2 of this report).

- 10.2.2. The Planner's Report provides some more context for the reason for refusal, and within same it is stated that the use of alternative feedstocks (such as animal tissue) could impact an area within a 20km radius of the site (as a result of land spreading of the digestate), noting that such use of animal tissues should be precluded. It would appear that the main issue of concern for the Planning Authority relates to odour, although the reference to Natura 2000 sites would imply that impacts on surface water bodies might also be a concern (resulting from land spreading of the digestate). It is further stated within the Planner's Report that there was inconsistency in relation to the issue of whether waste would be used in the facility, and it was not clear if offal and diseased or dead animal tissue is classed as a waste or an agricultural by-product. It further stated that the applicant has not explicitly confirmed that all feedstocks would be solely restricted to plant tissue material.
- 10.2.3. The first-party grounds of appeal set out that a detailed specification of the types of materials what would be used to feed the proposed digesters is set out in Chapter 3 of the Environmental Report which accompanies the application, with manure, crops and recycled liquid being the main inputs to the plant. It is stated that there is no ambiguity in relation to the inputs and outputs from the proposed plant.
- 10.2.4. In their response to the appeal, the PA state that the original application used the terms 'animal slurry' and 'farm by-products' which have a far broader definition than 'animal manure'. The PA welcomes the switch to less ambiguous terminology within the appeal submissions. It is reiterated that the nature of the substrate used greatly affects the odours emitted from the by-product fertilizer and to grant permission would have undermined rights of public participation in the planning application process.
- 10.2.5. In relation to the inputs and outputs of the proposed plant, I would note that the proposed processes involved in the proposed development, including the inputs and outputs, are set out in detail in the submitted Environmental Report. The proposed facility will take in agriculture energy crops such as grass silage, multi species sward and whole crop silage as well as animal by-produce such as cattle slurry and farmyard manure. Section 3.8 and Table 3.4 of the Environmental Report sets out

the approximate volumes of the various component materials or feedstock required for the proposed development and I have reproduced same below:

- Grass Silage 10,000 tonnes
- Farm Yard Manure 4,000 tonnes
- Cattle Slurry 10,000 tonnes
- Hybrid Winter Rye 12,000 tonnes
- Beet 5,500 tonnes
- 10.2.6. The facility will generate biogas with these inputs which will then be upgraded to biomethane gas. The remaining substrate will be processed into a sustainable bio fertiliser. Of the total volume of materials used in the facility, approximately 80% will be crop-based materials with less than 20% farm-by product. The biomass produced will be upgraded to biomethane at the facility and then transported off site to local customers or transported to one of the proposed gas injection points proposed by Gas Networks Ireland (GNI) on the national gas grid network.
- 10.2.7. The remaining digestate will be processed in a nutrient recovery facility located as part of the development. The digestate will be upgraded and pelleted to a usable concentrated fertiliser product.
- 10.2.8. In terms of the process description, this is set out in Section 3.3 of the Environmental Report and is as follows (and is also detailed in Plate 3.2 and Plate 3.3 of the Environmental Report).
 - Energy crops which will be predominantly grasses, grains and beet are harvested locally and transported fresh to the plant, where it is ensilted in clamps and left to ferment as silage.
 - Slurry is delivered to the prepits from local farms.
 - Silage is loaded into a solid feeder and then mixed with recirculated digestate before being pumped into the primary digester as a concentrated liquid feedstock.
 - The slurry is fed from the prepit tanks to the primary digester via liquid feed pump.

- The digestate is heated and constantly mixed realising biogas which is stored in the gas membrane domed roof in both the primary and secondary digester.
- The digestate is then pumped to the secondary digester when again it is heated and mixed to release biogas.
- The digestate is then pumped to a pasteurisation system before being put through a separator where the liquid fraction is processed in a nutrient recovery system to separate the ammonia, distilled water and thickened slurry. The various nutrients are then sold as a by-product.
- The biogas is removed from the digesters and processed in an upgrader unit to being it to the specification required for use as biomethane.
- The biomethane is then compressed to the required pressure and supplied to local customers or injected into the national grid at the grid entry unit.
- 10.2.9. While not directly referred to in the reason for refusal, I would note the Planning Authority has concerns in relation to impact on residential amenity, citing in particular the potential impact of odour. Reason for Refusal No. 1 relates to the impact of odour resulting from the spreading of the digestate, and concerns in relation to the inputs into same, with concerns that waste inputs such as animal tissue, would generate significant adverse impacts in relation to odour.
- 10.2.10. In relation to the Planning Authority's concern in relation to the impact of odour as a result of land spreading, and the specific concern in relation to the proposed feedstock, I am satisfied that there is sufficient detail in the application documents, and as summarised above, in order for the Board to be satisfied that the proposed feedstocks are in line with accepted practice for such facilities (e.g. the National Biomethane Strategy sets out that such feedstocks as set out above are standard inputs to such facilities). While I accept that the term originally utilised by the applicants 'animal by products' could open up the possibility of other inputs into the facility, the applicant has been explicit in further submissions that animal slurry and manure is to be used and I am satisfied that this is the case, and is as detailed in the Environmental Report. In any case, should the Board be minded to approve the proposed development, the inputs to the process could be controlled by way of condition.

- 10.2.11. In relation to land spreading, the spreading of the associated digestate on farmland is a recognised process, with environmental benefits associated with same, and there does not appear to be overarching concerns in relation to the odour impacts of same, at a national level, nor is there any evidence to suggest that odour impacts from same are greater than that of 'slurry' spreading. In fact, one would expect that a pelleted product such as the that produced would have less odour impacts than slurry. Notwithstanding, I would the Board should note that the carrying out of land spreading does not form part of this application. As such, I am of the view that, in the context of this appeal, the impacts of such land spreading and the management of same, are not a consideration for the Board. Furthermore, I would note that the application of fertilisers is regulated under the European Union (Good Agricultural Practice for Protection of Waters) Regulations, 2022. In relation to the impacts on water quality, I would note that the regulations contain specific measures to protect surface waters and groundwater from nutrient pollution arising from agricultural sources. This includes, inter alia, no land spreading within 5-10 metres of a watercourse following the opening of the spreading period.
- 10.2.12. In relation to specific issue of odour at a more localised level, and which are related to the operation of the biogas plant itself, Section 10 of the Environmental Report considers same, and Appendix V contains an Odour Management Plan (OMP). Odour impacts are ruled out at construction phase. In relation to the operational phase, it is noted that the inputs will be grass silage, multispecies sward, whole crops and beet, as well as animal slurry and manure. As noted above, these inputs would appear to be as expected for such a facility, with reference to the information as set out in the National Biogas Strategy. There is no suggestion that other inputs will be used. Notwithstanding, it is set out within the Odour Management Plan that the operation of the site has the potential to cause adverse effects at sensitive locations within the vicinity of the site, although it is concluded these impacts are not likely to be significant. Sources of such odours arise from delivery of feedstuff, storage of same, the AD process itself and digestate separation and storage. Other sources include the lands used for farming in the vicinity of the site, with odours associated with agricultural practices. The location of the closest sensitive receptors is set out in the Environmental Report, and it is noted that there

are only 2 no. houses within 500m in the pathway of the prevailing winds, a farmyard and house (R1 – the landowner's property), and a farm complex (R2).

- 10.2.13. Odour control measures are set out within the Environmental Report (and the OMP) and include appropriate handling of solid and liquid feedstock, high efficiency covers for site equipment as well as planting of additional trees and/or vegetation to act as a barrier between the site and neighbouring properties. Odour monitoring is also proposed, with an odour complaints procedure to be put in place. It is concluded that, due to the composition of over 80% agriculture crop and less than 20% agricultural by-product (manure and slurry), the incidence of odours are greatly reduced. It is concluded that there will be no significant effects in terms of odour.
- 10.2.14. Chapter 9 of the Environmental Report considers impacts on air quality. This makes reference to the Air Quality Impact Assessment Report, as contained in Appendix IV. It is set out that the main source of air emissions will be from the Combined Heat and Power (CHP) Plant. Emissions are released through a 5m stack, which is situated on top of the CHP container. The main emission from the stack is in the form of gaseous vapours, including NO2, SO2, PM10, CO,. The analysis includes modelling of predicted impacts on air quality, including impacts on sensitive residential receptors (a total of 7 no. dwellings were considered, as set out in the Air Quality Impact Assessment). It was concluded that the relevant air quality thresholds were not exceeded. Notwithstanding the finding of no significant impacts, Section 9.4 sets out a series of mitigation measures in relation to air quality, and this included but are not limited to appropriate management of feedstock and dust deposition monitoring.
- 10.2.15. In conclusions, and having regard to the considerations above, and having regard to the details that that have been submitted with the application, as relates to the proposed inputs and outputs, I am satisfied that the impacts associated with odour and air quality arising from the proposed development have been properly considered, and I am satisfied that no significant impacts in relation to odour or on air quality more generally are likely to occur.

10.3. Impacts on Water Quality and Flood Risk (Reason for Refusal No. 3)

- 10.3.1. Reason No. 3 refers to a lack of detail in relation to the attenuation and treatment by bio-remediation of storm water outflow from the site. Reference is made to flooding impacts, impacts on residential amenity, impacts on public health and impacts on Natura 2000 sites. I have considered impacts on Natura 2000 sites in Appendix 1 and Appendix 2 of this report. The report of the Senior Executive Scientist (Donegal County Council) raises concern in relation to potential nutrient release, and further notes that there the applicant should consider installing an integrated constructed wetland which will remove nutrients, either as an alternative or additional form of treatment to the settlement pond whose primary function will be to remove sediment.
- 10.3.2. The first party appeal submission sets out that it is clearly demonstrated that process water is completely recycled within the manufacturing operation, within an enclosed loop system and as such the only water to be managed within the drainage system is the surface water run-off from rainfall. It is stated that surface water run-off will be treated to removed any silt and contaminants that may potentially be present before it is recycled or discharged in a controlled manner. In addition it is stated that the applicant intends to apply for a Water Discharge Licence and this will ensure all water leaving the site will be in compliance with the Surface Water Regulations (SI 272 of 2009, as amended). In relation to possible flooding, it is stated that excess water will be held in an attenuation lagoon, with capacity for a 1 in 100 yr storm event, and as such the proposed development will not give rise to flooding.
- 10.3.3. Chapter 7 of the Environmental Report addresses surface water with reference to the Water Management Plan included in Appendix III. The Water Management Plan (Dated April 2023) sets out that the site is currently drained via a series of open drains which are in the catchment of the Drumbarnet Stream. The drainage from the site enters a ditch line which flows in a northerly direction along the L1214 local road where it joins the Cottage Stream, situated 1km north-east of the site boundary. This steam flows northwards for a distance of 650m where it joins the Drumbarnet stream, which then flows in a north direction into Lough Swilly some 4.3km further downstream. The Drumbarnet Stream is classed as 'Moderately polluted'.
- 10.3.4. The Water Management Plan sets out that only surface water generated by rainfall within the site will require management. In relation to same, it is proposed to

incorporate a settlement lagoon/attenuation pond which is designed to ensure sufficient settlement of solids takes place (in terms of determining the maximum allowable flow rate) and ensures that the required volume of storage is in place, which allows for a 1 in 100 yr storm event. The discharge from the pond will be via an oil interceptor. The proposed surface water design is illustrated diagrammatically in Drawing No. PL-19 'Proposed Site Drainage Plan'.

- 10.3.5. In relation to impacts on water quality generally, I note that Sections 5.6.4-5.7.2, and Section 7 of the Environmental Report, consider the potential impacts on water quality that could result from the proposed development. With surface water management measures in place, as described above, and as described in Section 5.7.1, it was concluded that in Chapter 5, and in Chapter 7, no significant residual impacts were expected to occur both at construction and operational phases. Such management measures are set out in Section 5.7.1 and Section 7.6 and relates to construction and operational phase measures. Those measures at construction phase include, but are not limited to, buffer zones of at least 10m from open watercourses (including drains on site) and installation of silt traps along open watercourses in relation to accidental spillages (as set out in Section 7.6). Further operational stage measures as set out in Section 5.7.1 of the Environmental Report (and in Section 4 of the Water Management Plan) include:
 - Surface water directed to the attenuation/settlement pond with a controlled discharge rate
 - Sufficient capacity for 1/100 yr storm event
 - Recycling of surface water for use in processes/only surplus water to be discharged form the site
 - Volume of water being discharged recorded on an hourly basis
 - Discharge from the pond will pass through an oil interceptor
 - Electronic monitoring of discharge water/should monitoring indicate issues with water quality, value will be automatically closed on the discharge pipe
- 10.3.6. Section 7.4.2 of Environmental Report considers the issue of Flooding, and it is noted that there are no past flood events recorded on or close to the application site.

With reference to mapping on floodinfo.ie, I note the site does not lie within any flood extents and as such the proposed development itself does not appear to be at risk of flooding. In relation to flooding downstream, I am not of the view that there will be an increased risk of flooding off site, noting that there is a flow control system fitted within the drainage system, and the capacity of the pond is sufficient to cater for a 1 in 100 year storm event.

- 10.3.7. In relation to water quality generally, I am satisfied that the water utilised within the processes on site is within an enclosed loop and is not discharged from the site to nearby surface water bodies. The rainwater that falls on the site does have the potential to be contaminated, however, including from any spillages from feedstock deliveries I am satisfied, however, that those surface water control measures, as well as measures to prevent spillages from feedstock deliveries, which are set out in the application documentation, and summarised above, will ensure that the surface water discharge from the site is of sufficient quality so as not to result in any adverse impacts on the quality of the surrounding surface water quality, nor will there be any demonstrable impacts on public health or residential amenity from such discharges. In particular I would note that electronic monitoring of surface water discharges is proposed, providing additional reassurance that water quality of surrounding surface water features will be maintained.
- 10.3.8. Having regard to the considerations above, I also conclude that the proposed would also therefore be in compliance with the Water Framework Directive, given that no significant impacts on the quality of surrounding surface water features are likely.

10.4. Transport Issues (Reason for Refusal No. 2)

10.4.1. Reason No. 2 state refers to the absence of detailed proposals to upgrade the local road network, and reference is made to the obstruction of the local public road network. In relation to same, I note the contents of the Roads Department report, which provides more context for the reason for refusal, which raises concerns in relation to the substructure of the L-5024 and L-1214 roads, and state that it may not be sufficient to facilitate a high volume of HGVs. It is stated that a special contribution in respect of local road strengthening will need to be applied, and the level of which will depend on the applicant's proposed access route from the N13.

Concern is also raised in relation to the left turns onto the local road L-5024 with the N13. It was considered that the PA should consult with TII as the proposed development will have an impact on the intensification of local roads L-5024 and L-1214 onto the N13. I would note that the Roads Department report does not recommend refusal on this basis however.

- 10.4.2. In the first party appeal submission, the applicant has set out that Chapter 12 of the Environmental Report considers traffic impacts and that a Traffic and Transport Assessment has been included in Appendix VII of same. The applicant states that it has been shown that there be no queues and minimal delays during the development's peak hours for both scenarios, no development and with development. In terms of upgrades, it is state that that the local road would be upgraded to ensure the local road network would be suitable to carry traffic associated with the proposed development and this can be funded through a special development contribution. It is further set out that the applicant will collaborate with the Planning Authority to develop a detailed traffic management plan for the proposed development. The appeal submission also contains a supplementary Roads Report (Appendix II of the appeal submission).
- 10.4.3. Chapter 12 of the Environmental Report makes reference to the Traffic and Transport Assessment, as contained in Appendix II of the Environmental Report. This sets out that the site access is situated off the local road, L5024 which joins the N13, approximately 1km to the southwest, and connects to the L1214 local road, 320m to the Northeast. Table 1 of the Roads Report as contained in Appendix 2 of the appeal submission, provides a breakdown of and it is stated that the delivery of feedstock will generate 38 arrivals per week (and average of 11 HGVs per day and 9 LGVs per day), with an average of 17 departures per week, relating to gas output, CO2 output and generation of fertilizer pellets. The total number of HGVs per week is 55 HGVs (allowing for a 5.5 day working week) which is approximately 2 HGV twoway movements per hour during a 12 hour day. Haul routes are stated as being via the N13 National Road and the L5024 local secondary road.
- 10.4.4. In terms of the capacity of the road network, the junction of the N13/L5024 was analysed using the industry standard PICADY programme. Access routes are shown in Figure 12.1 of the Environmental Report. Routes are shown to Travel from the N13 to the site via the L5024, and also via the L1214 to the east. In order to

determine the impact on the junction network, the construction year of 2025 was utilised for the purposes of traffic assessment, as this phase was concluded to generate the highest volumes of traffic (relative to the operational stage). I note that the junction retained sufficient capacity during the construction stage and was determined to operate well below the maximum Ratio of Flow to Capacity (RFC).

- 10.4.5. I would note that no analysis of any alternative haul routes was carried out, i.e. the route via the L5024/L1214 and the N13, notwithstanding the reference to the L1214 junction in the 'Scoping Document', as set out in Appendix A of the TTA. In relation to same, and in relation to the discussion above, a left turn does not appear to be feasible, for larger HGVs in any case, from the N13 to the L5024, as a result of the particular angle that the two roads meet, which appears to be quite acute, for left turns from the N13. In this instance, it would be more likely that incoming left turning traffic would utilise the N13 /L1214/L5024 route to access the site. This would have the result of reducing traffic flows at the N13/L5024 junction, and increasing traffic flow at the L1214/N13. However, I am not of the view that the increase in traffic at this junction would be material, and in any case, left turning traffic from the N13 onto the L1214 would not be required to stop at the turn, and would not impact materially on the operation of the junction, in my view.
- 10.4.6. I concur with the concern in relation to the left turn off the N13 to the L5024. However, I am of the view that, for incoming traffic. a left turn from the N13 onto the L-1214 would be a safer and more accessible option, and one that would be likely be chosen by HGV drivers in the normal course of events. For right hand turns off the N13, both route options appear to be feasible (i.e. via the L5024 and via the L5024/L-1214). I am not minded to impose a condition restricting left hand turns from the N13 onto the L5024, as to my mind this would not be enforceable, and it is not necessary, given the difficulty HGV drivers would face attempting to make this turn, when an easier, and safer, option is available via the L-1214. As such, it would appear that both routes (i.e. via the L5024 to/from the N13, or via the L-1214 to/from the N13) are feasible, save for a left hand turn via the L5024. I am of the view, that should the Board be minded to approve the proposed development, a detailed Traffic Management Plan should be requested which sets out the proposed access routes.
- 10.4.7. In relation to the proposed upgrading, and strengthening of the roads, it would appear that the Roads Report has set out scope for this issue to be dealt with by way

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of a special contribution. The applicant has accepted the need for such a contribution in the appeal submission. I would note that existing access is proposed to be upgraded which provide the required visibility splays to the north and south along the L5024 road. In relation to other measures as relates to road, I would note that a number of mitigation measures are set out in Section 12.4 of the Environmental Report, and of particular note in the context of the PA's reason for refusal are as follows

- Weighbridge to be maintained on site
- Upgrading of road markings on the L5024
- Pavement upgrading and repair
- 10.4.8. It is also proposed to consult with the Roads Department to upgrade signage and road maintenance.
- 10.4.9. In conclusion, I am satisfied that, should the Board be minded to approve the proposed development, a Construction and Operational Traffic Management Plan, that details *inter alia* haul routes at construction stage, and delivery and operational traffic routes at operational stage, would provide sufficient reassurance as to road safety considerations, as pertains to access to the site from the N13. I am satisfied that the proposed construction and operation of the proposed development will not have a significant adverse impact on the surrounding road network, in terms of capacity. The existing road does not appear to need any widening to accommodate the traffic volumes associated with the development (and no parties have raised the width of the roads as a fundamental concern). However, there does appear to be a need to upgrade the road, in terms of substrate, to accommodate heavier HGV traffic. I am satisfied that, should the Board be minded to approve the development, this can be achieved by way of special contribution, as suggested in the Donegal County Council Roads Report.

10.5. Other issues

EPA Licencing

10.5.1. I would note the report of the Senior Executive Scientist, Donegal County Council (report dated 1st June 2023) was of the view that the applicant must apply to the EPA

for an Industrial Emissions Licence as the annual tonnage is over 10,000 tonnes of feedstock.

- 10.5.2. The Board will note that it is not within the remit of the Board to determine whether an application requires an Industrial Emissions Licence, or indeed a Waste Licence, that this is a matter for the EPA. However, I note the Planning and Development Regulations 2001 (as amended) require where a development requires an IPPC or Waste licence, that it is advertised as such in the public notices.
- 10.5.3. In relation to same, I would note that Board, under the provisions of section 132 of the Planning and Development Act, 2000 (as amended) the Board sought, by way of letter dated 15th January 2025, additional documentation from the application as detailed in Section 9 of this report. As part of this request, clarification was sought from the applicant in relation to any potential EPA licencing requirements.
- 10.5.4. The applicant responded to same on 11th February 2025 and within this response it is stated that a waste licence is not required, as the development does not propose disposal or recovery of waste (as per section 39(1) of the Waste Act). Furthermore, it is stated that no licence is required under the Environmental Protection Agency Act 1992, as amended i.e. an industrial emissions ("IE"), an integrated pollution prevention and control "IPPC" licence or an integrated pollution control licence "IPC". Reference is made to correspondence with the EPA in relation to same (although this correspondence is not submitted with the submission).
- 10.5.5. Under section 131 of Planning and Development Act, the Board also sought the views of the Environmental Protection Agency (by way of a letter dated 18th February 2025) in relation to, *inter alia*. potential EPA licencing requirements.
- 10.5.6. A response from the EPA was received in relation to the above request on 18th March 2025 and within same it is stated that it was not possible to determine from the planning documentation if the proposed activity will require a licence from the EPA. It is further noted that the applicant has not contacted the EPA for a determination in this regard and that EPA have not received a licence application.
- 10.5.7. As such, it has not been determined if any licence from the EPA is required. In relation to same I would note that such licencing is ultimately a matter for the EPA. However, I would draw the Board's attention to Part 4, Chapter 1, Part 18 (1)(d)(iv) of the Planning and Development Regulations, 2001 (as amended) which states the

following, in relation to the consultation requirements for planning application such as this one, specifically in relation to the requirements of the newspaper notice:

where the application relates to development which comprises or is for the purposes of an activity requiring an integrated pollution control licence, an industrial emissions licence or a waste licence, an indication of that fact.

10.5.8. In relation to same, the Board may wish to consider if a determination can be made on this appeal in the absence of a definitive determination on any EPA licence requirements.

Noise Impacts

10.5.9. While the Planning Authority did not raised concerns in relation to noise, I would note that Policy ED-P-9 requires a consideration of *inter alia* the potential impacts of noise. Section 11 of the Environmental Report considers noise impacts, and a Noise Impact Assessment Report is contained in Appendix VI. Noise levels at construction stage were found to be at levels that are typically deemed acceptable (with reference to TII Guideline). At application stage it was concluded that, given distance between the plant and the receptors, operational noise from the proposed development was likely to have a low impact on the neighbouring residential properties, with mitigation measures in place. The main noise sources at operational stage relate to mechanical plant. It is set out that the plant will be designed to have a rating level that is lower than the background noise level.

Landscape and Visual Impact

10.5.10. Policy ED-P-9 requires a consideration of *inter alia* design, visual impact, impact on landscape and boundary treatments. I note that the site lies partly within an Area of High Scenic Amenity and an Area of Moderate Scenic Amenity as defined in Map 11.1 'Scenic Amenity'. Objective and Policies within the Development Plan include Objective L-O-1 : To protect, manage and conserve the character, quality and value of the Donegal landscape and Policy L-P-2 To protect areas identified as 'High Scenic Amenity' and 'Moderate Scenic Amenity' on Map 11.1 'Scenic Amenity'. Within these areas, only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan.

- 10.5.11. The Planning Authority were of the view that generally the layout and design were of high quality, although considered additional measures to assist integration into the landscape were required.
- 10.5.12. I note that Chapter 14 of the Environmental Report considers landscape and visual impact, and contains a Visual Impact Assessment, incorporating 6 different viewpoints towards the site. Within same it was concluded that the visual impact of the development is minimal, due to the distances to the nearest dwellings and due to the distance of vantage points towards the proposed development.
- 10.5.13. In relation to the conclusions of same, I would note that the proposed represents a relatively large intervention within an existing rural landscape, with some 4.7 ha of land being developed upon, and with buildings of a somewhat industrial appearance proposed. Notwithstanding, said structures are relatively low rise, and the site already has significant screening towards the development, and the application has proposed additional screening measures.
- 10.5.14. I am satisfied that the visual impact of the proposed development will not be significant, therefore, and the impact on the landscape is in compliance with the landscape policies referred to above.

Biodiversity

- 10.5.15. I would note that the Planning Authority did not raise any specific concerns in relation to the biodiversity on the site *per se* but did raised concerns in relation to general environmental impacts (resulting from the spreading of digestate as discussed above). Impacts on surface water was also raised as a concern. I would note that the submission from the Department of Housing, Local Government and Heritage (DHLGH) at application stages includes a consideration of general biodiversity and the impact of same as a result of the proposed development, and has recommend conditions in relation to timing of site clearance and provision of buffers around the development.
- 10.5.16. In relation to same, I note that Chapter 5 of the Environmental Report considers the impact of the proposed development on Biodiversity. It is set out therein the proposed development will not have an impact on any bird species, noting the results of bird surveys carried out between November 2022 and March 2023. No impacts on bats were expected as there were limited resources on site to

support same. Notwithstanding, I note that the DHLGH has recommend a condition in relation to lighting, noting that the development will bring light to a previously dark area. It is recommended that *inter alia* a lighting plan is submitted, in order to ensure that light pollution is minimised, in the interest of protecting wildlife more generally. Should the Board be minded to grant permission I would recommended that such a condition be imposed.

- 10.5.17. While the site was not considered to support amphibians, lands to the north were considered suitable and mitigation measures are set out in order to ensure no impact on same. Mitigation measures as set out also in relation to avoiding impacts related to human activity and noise, dust deposition and impacts on water (the latter measures are considered in detail in Section 7.3 above). Of note, and having regard to the comments from DHLGH, buffer zones of at least 10m from open watercourses, including drains on site, are proposed prior to the commencement of construction works.
- 10.5.18. Having regard to the above, I am satisfied that there will be no significant adverse impacts on biodiversity, subject to the proposed mitigation measures being implemented, including those mitigation measures relation to water quality (which will also serve to protect any amphibian habitat to the north of the site).

Cultural Heritage

10.5.19. Chapter 13 of the Environmental Report considers Cultural Heritage and it was noted there is no recorded monuments within the application site or no known items of archaeological heritage within the application site. Archaeological monitoring is recommended however during topsoil stripping. The Planning Authority did not raise any concerns in relation to impacts on cultural heritage. I would note that the submission from Department of Housing, Local Government and Heritage (DHLGH) [dated 29th June 2023] at application stage recommended conditions in relation to archaeology. Should the Board be minded to approve the proposed development, I would recommend that conditions in relation to archaeological monitoring be imposed.

Seveso III/CoMAH 2015 Considerations

10.5.20. I would note that the applicant has submitted a 'CoMAH Summary Report' as part of the submission made on 11th February 2025. In summary, this report

considers the volumes of hazardous substances stored, used and produced at the proposed facility and contains detail of inventory calculations that were conducted in line with schedule 1 of the Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations S.I. 209 of 2015, commonly referred to as Seveso II or CoMAH 2015.

- 10.5.21. It is determined within this report that the CoMAH regulations do not apply to the proposed development as the volumes of substances in question are substantially below the CoMAH thresholds required for the implementation of the regulations.
- 10.5.22. I would note that the Health and Safety Authority (HSA) at Planning Application Stage (in their response to Donegal County Council dated 16th June 2023) have not previously determined the CoMAH regulations apply and they have previously stated that the HSA does not advise against the granting of planning permission.
- 10.5.23. Given the nature of the application has not changed since planning application stage, in terms of volumes of gases stored, used and produced on the site, I am satisfied that it remains the case that CoMAH regulations do not apply to the proposed facility.

11.0 Recommendation

11.1. Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

12.0 Reasons and Considerations

Having regard to:

- Ireland's National Biomethane Strategy (May, 2024),
- Climate Action Plan, 2025 [CAP 25], and Climate Action Plan 2024,
- Ireland's 4th National Biodiversity Action Plan 2023–2030,
- the Revised National Planning Framework (April 2025),

- the provisions of the Donegal County Development Plan 2024-2030,
- the nature, scale, extent and layout of the proposed development,
- 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 and safety, would be acceptable in terms of archaeology, and would not give rise to increased risk of flooding of the site or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

- The development shall be carried out and completed in accordance with the plans submitted to the planning authority, and in accordance with the Further Information as submitted to An Bord Pleanála on the 11th day of February 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.
 Reason: In the interest of clarity.
 The developer shall ensure that all mitigation measures, as set out in the
- 2. The developer shall ensure that all mitigation measures, as set out in the Natura Impact Statement (dated April 2023) and Environmental Report (dated February 2021) and other particulars submitted with the application, 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.
3.	Prior to the commencement of development, the applicants shall submit a Traffic Management Plan for approval to, for approval in writing with, the Planning Authority. The Traffic Management Plan shall set out details of proposed haul routes for HGVs and larger vehicles entering and exiting the proposed development and shall exclude any haul route that necessitates a left hand turn from the N13 onto the L5024. Reason: In the interests of road safety.
4.	The following limits and requirements shall be complied with in the anaerobic digestion process: (a) The mix of plant feedstock shall be as described in Table 3.4 of the Environmental Report (April 2023) as submitted with the application. (b) There shall be no material change in the mix of feedstock or a change in the nature of the feedstock mix without the benefit of a further planning permission. Reason: In the interest of clarity.
5.	Feedstock deliveries to the site and the transport of digestate from the site shall be confined to between the hours of 0700 to 2000 Monday to Friday and 0800 and 1800 on Saturdays, unless otherwise agreed in writing with the Planning Authority. Reason: In the interests of orderly development and the residential amenity of surrounding dwellings.
6.	Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Surface water from the site shall not be permitted to drain onto the adjoining public road or adjoining properties.

	Reason: In the interest of environmental protection and public health.
7.	The following wildlife protection measures shall be complied with:
	(a) Prior to the commencement of development, a Lighting Plan shall be
	submitted to the planning authority for approval in writing. This Plan shall
	regard to appropriate guidance and shall seek to minimise light pollution
	from the proposed development.
	(b) No trees or hedgerows shall be cleared between the months of March
	to August (inclusive).
	(c) All trees and hedgerows to be retained on the site shall be adequately
	protected during the period of construction in accordance with BS: 5837.
	Such measures shall include a protection fence which shall be erected
	beyond the branch spread, and no construction work or storage shall be
	carried out within the protective barrier.
	Reason: In the interest of wildlife protection.
8.	All road surfaces, culverts, watercourses, verges and public lands shall be
	protected during construction and, in the case of any damage occurring,
	shall be reinstated to the satisfaction of the planning authority.
	Reason: In order to ensure a satisfactory standard of development.
9.	Site development and building works shall be carried out only between the
	hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400
	hours on Saturdays and not at all on Sundays and public holidays.
	Deviation from these times will only be allowed in exceptional
	circumstances where prior written approval has been received from the
	Reason : In order to safeguard the residential amenities of property in the
	VICINITY.
10.	The construction of the development shall be managed in accordance with
	a Construction and Environmental Management Plan, which shall be
	submitted to, and agreed in writing with, the planning authority prior to
	commencement of development. This plan shall include inter alia:

	(a) All mitigation and control measures outlined in the Preliminary
	Construction Environmental Management Plan and all other
	particulars submitted with the application.
	(b) Details in relation to site access and traffic management.
	(c) Details of intended construction practice for the development,
	including hours of working, noise management measures, and on-
	site management and off-site disposal of construction/demolition
	waste.
	Reason: To safeguard the amenities of the area.
11.	The developer shall engage a suitably qualified (licensed eligible)
	archaeologist to monitor (licensed under the National Monuments Acts) all
	site clearance works and topsoil stripping, associated with the development
	following consultation with the Local Authority Archaeologist. Prior to the
	commencement of such works the archaeologist shall consult with and
	forward to the Local Authority archaeologist as appropriate a method
	statement for written agreement. The use of appropriate tools and/or
	machinery to ensure the preservation and recording of any surviving
	archaeological remains shall be necessary. Should archaeological remains
	be identified during the course of archaeological monitoring, all works shall
	cease in the area of archaeological interest pending a decision of the
	planning authority, in consultation with the National Monuments Service,
	regarding appropriate mitigation.
	The developer shall facilitate the archaeologist in recording any remains
	identified. Any further archaeological mitigation requirements specified by
	the planning authority, following consultation with the National Monuments
	Service, shall be complied with by the developer.
	Following the completion of all archaeological work on site and any
	necessary post-excavation specialist analysis, the planning authority and
	the National Monuments Service shall be furnished with a final
	archaeological report describing the results of the monitoring and any
	subsequent required archaeological investigative work/excavation required.

	All resulting and associated archaeological costs shall be borne by the
	developer.
	Reason: To ensure the continued preservation [either in situ or by record]
	of places, caves, sites, features or other objects of archaeological interest.
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 reinstatement of public roads which may be damaged by the
	transport of materials to the site, coupled with an agreement empowering
	the planning authority to apply such security or part thereof to the
	satisfactory reinstatement of the public road. The form and amount of the
	security shall be as agreed between the planning authority and the
	developer or, in default of agreement, shall be referred to An Bord Pleanála
	for determination.
	Reason: To ensure that the public road is satisfactorily reinstated, if
	necessary.
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 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.

Rónán O'Connor Senior Planning Inspector

15th May 2025

Appendix 1 Appropriate Assessment Screening Determination (Stage 1)

Screening for Appropriate Assessment

Screening Determination

Step 1: Description

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The applicant has submitted a screening for Appropriate Assessment and an NIS with the planning application (please refer to the 'Habitats Directive Appropriate Assessment Screening and Natura Impact Statement' prepared by Kingfisher Environmental Consultants, April 2023).

The applicant provides a description of the proposed development in Section 2.2.2 of the AA report. This is as per the detailed description in Section 2.0 of this report. In summary, the development will consist of the construction and continuous operation of an agricultural biogas renewable energy facility. The application is accompanied by various supporting information including an Environmental Report (April 2023) which includes *inter alia*

- Ornithological Report (Appendix II)
- Water Management Plan (Appendix III)
- Air Quality Impact Assessment Report (Appendix IV)
- Odour Management Plan (Appendix V)
- Noise Impact Assessment Report (Appendix VI)
- Traffic and Transport Assessment Report (Appendix VII)
- Archaeological Report (Appendix VIII).

The application also includes a standalone Preliminary Construction Management Plan (CEMP)(April 2023) and a Site Assessment (March 2023).

The development site is described in Section 2 of the AA Screening Report and, as of November 2022, the site consisted of Arable Crops (BC1) and Improved Agricultural Grassland – GA1. The western boundary of the site is formed by an existing low hedgerow (WL1). It is noted that the lands upon which it is proposed to construct the Biogas facility is principally arable lands comprising of winter barley, and it is stated that this habitat site has no particular conservation value with regards to the EU Habitats Directive and is not listed as a priority habitat.

The hydrology of the general area of the site is described in the AA Screening Report. It is shown that the proposed site is within the general drainage area of the Drumbarnet Stream, which flows in a north-easterly direction towards the catchment of Lough Swilly. The report also describes a number of field ditches of a small nature on the eastern and western field boundaries of the proposed site, with the drainage naturally following the contours of the field, in a south to north direction. Drainage ditches within the native woodland to the north of the site are also described, which eventually discharge to a local stream, north-east of the site, via other drainage ditches. This stream eventually joins the Drumbarnet Stream close to the intersection of the public road with the N13 road. This is illustrated diagrammatically in Figure 2.2.2.3 of the AA Screening Report.

Step 2: Potential impact mechanisms from the project

The Zone of Influence, as described in the AA Screening Report, has been determined by the Source-Pathway-Receptor model. The development site is not located in or immediately adjacent to a European site. The closest European sites are the Lough Swilly SPA (004075) c2.2km to the west (3.3 km downstream distance); Lough Swilly SAC (002287) c2.7km to the west and north-west; River Finn SAC (002301) c8.2km to the south-east and Leannan River SAC (002176) c8.7km to the north-west. The AA Screening Report 'screens-in' Lough Swilly SPA (004075) and Lough Swilly SAC (002287), given the potential pathway between the site and these 2 no. Natura sites by means of the local drainage network. It is concluded that indirect impacts from discharge of contaminated run-off during the constriction and or operational phases could result on same. It is set out in the AA Screening that a negative change to water quality is contrary to the Water Framework Directive and is potentially negative to the health of any aquatic habitats of an SAC or SPA in terms of feeding grounds, species composition for food for birdlife and potential impact upon aquatic invertebrates and fish populations. This is in turn could impact upon otters and birdlife.

All other sites are screened out due to the intervening distance and/or lack of impact pathways.

In considering potential impacts I have considered the contents of the AA Screening Report, the NIS and other documentation on file including the Environmental Report and associated appendices. With regard to same I am of the view that the elements of the proposed development that would potentially generate a source of impact are:

Construction Stage

- The construction of the built structures and hardstanding on site
- Hydrocarbon spillages

with potential indirect impacts on surface water quality within Natura 2000 sites with a hydrological link to the site.

Operational Stage

- Run-off and surface water and general yard management
- Soiled water generated on the site
- Domestic Waste Water disposal
- Spillages from input deliveries (i.e. slurry and farmyard manure)
- Hydrocarbon spillages
- Nitrogen emissions

I note the indirect surface water connection to Lough Swilly SPA/SAC as described in the NIS. As such, potential impact mechanisms include those from surface water pollution from construction works (silt/ hydrocarbon/ construction related), resulting in a deterioration of water quality. At operational stage, contaminated surface water runoff from hard standing and roofs could enter the surface water network, as well as possible contaminants from the materials (such as slurry and manure) handled on the site, as well as hydrocarbon spillages from delivery vehicles and on-site machinery and plant. Emissions to air resulting from the production and release of nitrogen is a further potential impact mechanism, as cited in the Air Quality Assessment Report. I would note that this is not referred to in the AA Screening Report or in the NIS as a possible impact mechanism. Notwithstanding same, I am of the view that the Board has sufficient information on file in order to come to a reasoned conclusion on the likelihood of potential impacts from same. In relation to emissions, I would consider it reasonable to assume that, if likely significant impacts are ruled out for those Natura 2000 sites closest to the site (Lough Swilly SPA/SAC), they can also be ruled out for those Natura 2000 sites at a greater distance from the application site.

The development site is described in Section 2 of the AA Screening Report and, as of November 2022, the site consisted of Arable Crops (BC1) and Improved Agricultural Grassland – GA1. The western boundary of the site is formed by an existing low hedgerow (WL1). It is noted that the lands upon which it is proposed to construct the Biogas facility is principally arable lands comprising of winter barley, and it is stated that this habitat site has no particular conservation value with regards to the EU Habitats Directive and is not listed as a priority habitat.

There is no evidence on file that the site that the site supports significant populations of any species or habitat of qualifying interest for any Natura 2000 sites, including otter (a qualifying interest of Lough Swilly SAC) nor is there evidence that the drainage ditches support significant populations of salmon (a qualifying interest of the Leannan River SAC, the River Finn SAC and Cloghernagore Bog and Glenveagh National Park SAC).

In terms of bird species, the NIS notes that the potential for the site to be a foraging and feeding area for the Greylag Goose or the Greenland White Fronted Goose is extremely unlikely given the larger intervening distance from the site and the Lough Swilly SPA (c2.2km away at the closest point). The N13 road also acts as a physical linear boundary between the site and the SPA. No evidence of feeding or foraging of geese was evident on site. It is noted also that there are significant arable lands to the west of the N13 road towards Lough Swilly and also the north-east of Newtowncunningham. In relation the SAC, direct impacts on species associated with same are ruled out due to distance (c2.7km), the lack of a border with a main stream or river and the physical separation provided by the N13 road.

I would also note that an Ornithological Report is contained in Appendix II of the Environmental Report, but is not referred to in the NIS. Notwithstanding, this report makes reference to winter surveys carried out in December 2022 and January, February and March 2023. The surveys did not detect any waterbird species utilising the site or the areas within a 500m buffer of the site. As such the conclusions of the Ornithological Report support the conclusions of the NIS, and I am satisfied that ex-situ on bird species associated with Lough Swilly SPA can be ruled out.

The NIS sets out that, in relation indirect impacts, that there are no aquatic habitats within the proposed development area, and the small drainage ditches do not have any fisheries value, due to the seasonal flow regime and distance from any main streams. It is set out that there is however potential to result in water quality impacts, including pollution and siltation/sedimentation run-off during construction and built phase of the proposed project, before any mitigation is considered. Operational phase threats include wastewater discharges from toilets and offices, management of stormwater, management of potentially contaminated waters associated with materials deliver, handling and storage, emergencies and emergency procedures and unmonitored discharges from site.

I would note the Environmental Report also considers potential impacts on Natura 2000 sites, as a result of Nitrogen Deposition occurring from emissions from the site, and these were found to be within acceptable limits, having regard to EPA Guidance, and as set out in Section 2.2 of the Air Quality Impact Assessment. The process contribution (PC) at the Lough Swilly SPA and SAC were found to be less than 0.3kg N/ha/yr, and as a result the impact is considered *de minimis* for the purposes of Nitrogen Assessment. Furthermore it was found that the maximum predicated Nitrogen Deposition was significantly less than 1% at all of the locations assessed. While the EPA Guidance document underpinning same is not referenced, it would appear to be derived from an EPA Guidance document that is intended to be utilised for Intensive Agriculture Facilities (i.e. poultry farms and piggeries for example), that require an EPA Licence. The proposed development is not such a facility. Notwithstanding, the modelling has demonstrated a *de minimis* impact. Furthermore, I would note the distance of the proposed development from the nearest Natura 2000 sites, which is at least 4.2km (to Lough Swilly SAC). I am not of the view, therefore, that there will be any likely significant impacts as a result of Nitrogen Deposition on the closest Natura 2000 sites nor on any Natura 2000 sites beyond.

While Reason No. 1 refers to potential impacts on Natura 2000 sites as a result of the spreading of digestate produced by the facility, the impacts of such landspreading and the management of same, are not a consideration for the Board, and the proposal under consideration here does not include land spreading. Furthermore, I would note that the application of fertilisers is regulated under the European Union (Good Agricultural Practice for Protection of Waters) Regulations, 2022. The regulations contain specific measures to protect surface waters and groundwater from nutrient pollution arising from agricultural sources. This includes, *inter alia*, no land spreading within 5-10 metres of a watercourse following the opening of the spreading period. I note that an Appropriate Assessment was completed as part of Ireland's fifth Nitrates Action Programme (NAP) 2022-2025, which is given effect by the European Communities (Good Agricultural Practice for Protection of Waters) Regulations of Waters) Regulations 2022, and concluded that the programme would not adversely affect the integrity of any European Site.

There are no other readily apparent impact mechanisms that could arise as a result of this project.

Step 3: European Sites at risk

European Sites within the Potential Zone of Impact

- Lough Swilly SAC
- Lough Swilly SPA

Table 2: Could the project undermine the conservation objectives 'alone'						
	Conservation objective (summary)	Could the conservation objectives be undermined (Y/N)?				
European Site and qualifying features		Surface water pollution				
Estuaries [1130]	To maintain the	Yes. See discussion below.				
	favourable					
Coastal lagoons	conservation					
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[1150]	condition of:					
Atlantic salt	 Estuaries [1130] 					
Clause	To restore the					
(Glauco-	favourable					
	conservation					
maritimae) [1330]	condition of:					
Molinia meadows	Coastal lagoons					
on calcareous,	[1150]					
peaty or clayey-						
silt-laden soils	Atlantic salt					
(Molinion	meadows (Glauco-					
caeruleae) [6410]	Puccinellietalia					
Old sessile oak	maritimae) [1330]					
woods with llex	Old sessile oak					
and Blechnum in	woods with llex					
the British Isles	and Blechnum in					
[91A0]	the British Isles					
	[91A0]					
Phocoena	 Lutra lutra (Otter) 					
phocoena	[1355]					
(Harbour	[1000]					
Porpoise) [1351] ⁵						
Lutra lutra (Otter)						
[1355]						
Lough Swilly SP	A (004075)					
Lough Swilly	To maintain the V	es. See discussion below				
SPA	favourable					
	conservation					

⁵ I note that the Harbour Porpoise was added as a new Qualifying Interest in March 2023 with reference to <u>https://www.npws.ie/sites/default/files/protected-sites/amendment_notifications/AN002287.pdf</u>. I would further note that there is no specific conservation objective relating the harbour porpoise.

Great Crested conditio	n of bird	
Grebe (Podiceps species	of special	
cristatus) [A005] conserv	ation interest.	
Grey Heron		
(Ardea cinerea)		
[A028]		
Whooper Swan		
(Cygnus cygnus)		
[A038]		
Greylag Goose		
(Anser anser)		
[A043]		
Shelduck		
(Tadorna		
tadorna) [A048]		
Wigeon (Anas		
penelope) [A050]		
Teal (Anas		
crecca) [A052]		
Mallard (Anas		
platyrhynchos)		
[A053]		
Shoveler (Anas		
clypeata) [A056]		
Scaup (Aythya		
marila) [A062]		
Goldeneye		
(Bucephala		
clangula) [A067]		

Red-breasted		
Merganser		
(Mergus serrator)		
[A069]		
Coot (Fulica atra)		
[A125]		
Oystercatcher		
(Haematopus		
ostralegus)		
[A130]		
Knot (Calidris		
canutus) [A143]		
Dunlin (Calidris		
alpina) [A149]		
Curiew		
(Numenius		
arquata) [A 160]		
Redshank		
(Tringa totanus)		
[A162]		
Greenshank		
(Tringa		
nebularia) [A164]		
Black-headed		
Gull		
(Chroicocephalus		
ridibundus)		

Common Gull		
(Larus canus)		
[A182]		
Sandwich Tern		
(Sterna		
sandvicensis)		
[A191]		
Common Tern		
(Sterna hirundo)		
[A193]		
Greenland		
White-fronted		
Goose (Anser		
albifrons		
flavirostris)		
[A395]		
Wetland and		
Waterbirds		
[A999]		

The development site is hydrologically connected to the above site as described above. A potential pathway for indirect effects on water dependent Qualifying Interests (QIs) is identified in the form of deterioration of surface water and groundwater quality, resulting from pollution from the construction and operational phases of the development.

Therefore, pollution of surface water may potentially result in significant effects on downstream aquatic or groundwater influenced QI habitats within the SAC and SPA in the absence of mitigation measures.

Table 1 European Sites at risk from impacts of the proposed project			
Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
Indirect surface water	Drainage	Lough Swilly	Lough Swilly SAC
pollution	ditch on the boundary which provides an indirect hydrological connection to Lough Swilly	SAC Lough Swilly SPA	Estuaries [1130] Coastal lagoons [1150] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Molinia meadows on calcareous, peaty or
	SAC/Lough Swilly SPA via surrounding surface water bodies.		clayey-silt-laden soils (Molinion caeruleae) [6410] Phocoena phocoena (Harbour Porpoise) [1351]
			Lutra lutra (Otter) [1355] Lough Swilly SPA
			Great Crested Grebe (Podiceps cristatus) [A005]
			Grey Heron (Ardea cinerea) [A028]
			Whooper Swan (Cygnus cygnus) [A038]
			Greylag Goose (Anser anser) [A043]

		Shelduck (Tadorna	
		tadorna) [A048]	
		Wigeon (Anas penelope)	
		[A050]	
		Teal (Anas crecca)	
		[AU52]	
		Mallard (Anas	
		platyrhynchos) [A053]	
		Shoveler (Anas clypeata)	
		[A056]	
		Scaup (Aythya marila)	
		[A062]	
		Goldeneye (Bucephala	
		clangula) [A067]	
		Red-breasted Merganser	
		(Mergus serrator) [A069]	
		Coot (Fulica atra) [A125]	
		Oystercatcher	
		(Haematopus ostralegus)	
		[A130]	
		Knot (Calidris canutus)	
		[A143]	
		Dunlin (Calidris alpina)	
		[A149]	
		Curlew (Numenius	
		arquata) [A160]	
		Podshank (Tringa	
		totanue) [A162]	
		(0(a)105) [A 102]	

		Greenshank (Tringa
		nebularia) [A164]
		Black-headed Gull
		(Chroicocephalus
		, ridibundus) [A179]
		Common Gull (Larus
		canus) [A182]
		Sandwich Tern (Sterna
		sandvicensis) [A191]
		Common Torn (Storna
		Common rem (Sterna
		hirundo) [A193]
		Greenland White-fronted
		Goose (Anser albifrons
		flavirostris) [A395]
		Wetland and Waterbirds
		[A999]

Step 4: Likely significant effects on the European site(s) 'alone'

As noted above the main aspects of the proposed development which could undermine conservation objectives and result in significant effects on Lough Swilly SPA and SAC include the alteration / deterioration of water quality arising mainly due to *inter ala* earthworks, potential release of hydrocarbons, contamination from wastewater disposal, release of cement-based products, etc. At operational stage, the potential contamination of surface water run off due to spillages, hydrocarbon run off etc could also impact on water quality. While I note that mitigation is provided at both construction and operational stages, the nature of such mitigation is non-standard in my view, in particular the implementation of water quality monitoring, which could be taken as a mitigation measure designed to avoid impacts on downstream Natura 2000

sites, namely the Lough Swilly Sites. The scale and nature of the proposed development is also a consideration here, with the nature of the use being somewhat more intensive than other agricultural type uses in the area, and with materials being delivered and processed on site which could in themselves lead to surface water pollution.

With reference to Lough Swilly SPA, a deterioration in water quality could lead to direct impacts on bird species themselves and on the habitats that such bird species rely on.

I therefore conclude that the proposed development would have a likely significant effect 'alone' on qualifying features of the following European Sites from effects associated with the potential alteration / deterioration of water quality and changes to local hydrological regime:

• Lough Swilly SPA and SAC

An Appropriate Assessment (Stage 2) (NIS) is required on the basis of the effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at this time.

Proceed to AA.

Overall Conclusion - Screening Determination

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, provided in the screening report for AA.

I conclude that the proposed development is likely to have a significant effect on the qualifying features of the following European Sites from effects associated with the potential alteration / deterioration of water quality and potential changes to local hydrological regime:

• Lough Swilly SPA and SAC

It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is required on the basis of the effects of the project 'alone'.

Appendix 2: Appropriate Assessment (Stage 2)

Appropriate Assessment

Integrity test

Natura Impact Statement

Section 3 of the report is the Stage 2 – Appropriate assessment. This sets out in detail the site characteristics and conservation objectives of those sites that have been 'screened-in' i.e. Lough Swilly SAC and Lough Swilly SPA.

The NIS sets out that, in relation indirect impacts, that there are no aquatic habitats within the proposed development area, and the small drainage ditches do not have any fisheries value, due to the seasonal flow regime and distance from any main streams. It is set out that there is however potential to result in water quality impacts, including pollution and siltation/sedimentation run-off during construction and built phase of the proposed project, before any mitigation is considered. Operational phase threats include wastewater discharges from Toilets and Offices, management of stormwater, management of potentially contaminated waters associated with materials deliver, handling and storage, emergencies and emergency procedures and unmonitored discharges from site.

It is set out that the baseline water quality of the Drumbarnet Stream within the wider study area is evaluated as being of 'Poor Status', and the project must not preclude the potential for this stream to reach 'Good Status'.

I would note that Section 3.5.8 of the NIS states the following: 'It is reasonable to determine that the conservation objectives of a European Site will be met if its habitats and species are maintained at a favourable conservation status' However I do note that the conservation objectives of Lough Swilly SAC aim to 'restore' the favourable conservation condition of particular habitats and species, rather than 'maintain' (namely Coastal lagoons, Atlantic salt meadows, Old sessile oak woods with Ilex and Blechnum in the British Isles, Lutra lutra (Otter). I have discussed in my assessment below. The NIS concludes that the proposed development either individually or in combination with

other plans/projects will not have a significant effects on a European site – either Lough Swilly SAC or Lough Swilly SPA.

I generally concur with the conclusions as set out in the NIS i.e, that there is potential for indirect impacts on the integrity of the European Sites referenced above. This is due to possible future degradation of water quality and changes to the existing local hydrological regime to facilitate the development, works during the construction phase, and other activities that are part of the operational phase.

The above could result in degraded water quality leading to a loss of habitat directly, to a loss of foraging grounds and food supplies for certain species, population decline and / or negative effects for qualifying interests associated with each of these European sites. It could also potentially reduce the distribution of suitable supporting habitats or indirectly affect a species through reducing suitable habitat areas for foraging.

The effects described could therefore undermine the Conservation Objectives for the relevant qualifying interests, which would adversely affect the integrity of the screened-in European sites.

Regarding the impact on the water quality of these sites, the avoidance of water pollution reaching the designated areas is proposed by the Applicant through various mitigation measures. I note that a full description of mitigation measures to protect surface water during the construction and operational phases of the proposed development are described in the relevant sections of the Environmental Report and the associated Water Management Plan.

Mitigation measures

Mitigation measures are set out in Section 3.3.1 and include measures that are set out in the Water Management Plan (as per Appendix 2 of the NIS, and Appendix III of the Environmental Report) and include, but are not limited to the following measures:

Construction Stage:

 Installation of a silt fence down gradient from the works/along the northern, eastern and western boundaries/to prevent silting or contaminated run-off from leaving the site towards any source water ditch.

- Topsoil to be stored in an area furthest away from any drainage ditch/will be covered by an impermeable membrane.
- Wheel wash station
- Management of concrete deliveries
- Appropriate storage of materials on site/fuel oils stored outside of a 50m buffer from any minor watercourse

Operational phase:

- Wastewater discharges from the toilets and offices will pass to a Wastewater Treatment Plant and will then discharge to ground via a percolation system. This system will meet the EPA Code of Practice and will be appropriately sized and located.
- Surface water management are proposals for include attenuation/settlement pond for rainwater runoff
- Surface water discharged at a controlled discharge rate with sufficient capacity for 1/100 yr storm event
- Recycling of surface water for use in processes/only surplus water to be discharged form the site
- Volume of water being discharged recorded on an hourly basis
- Discharge from the pond will pass through an oil interceptor
- Electronic monitoring of discharge water/should monitoring indicate issues with water quality, value will be automatically closed on the discharge pipe

In combination assessment

I consider that cumulative effects could potentially result from individually insignificant, but collectively significant, actions taking place over a period of time, particularly if they are concentrated in a physical location simultaneously. Cumulative effects can make habitats and species more vulnerable or sensitive to change. The NIS references other plans and projects considered for their potential to act in-combination with the proposed development. Following assessment of the above-referenced plans and projects, it is concluded that, the overall proposed development would not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own, subject to mitigation. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.

Taking into consideration the reported residual impacts from other plans and projects in the area and the predicted impacts with the current proposal, the NIS has found that no residual cumulative impacts have been identified with regard to any European Site.

I am of the view that, subject to the mitigation measures above being implement, adverse onsite integrity effects on the Lough Swilly SPA and SAC, can be ruled out. having taken into account the conservation objectives of the sites. The proposed development will not prevent or delay the attainment of Conservation Objectives for the Lough Swilly SPA and SAC. I would note that for a number of qualifying interests for Lough Swilly SAC, the conservation objective is to 'restore the favourable conservation condition' of same (of relevance here are Coastal Iagoons, Atlantic salt meadows and Otter). There will be no deterioration of water quality within Lough Swilly SAC as a result of this proposed development, either by itself or in-combination with other developments, with the above mitigation measures in place. As such there is no reasonable scientific doubt that the proposed development would prevent the above conservation objective being achieved.

Conclusion

Following 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 Lough Swilly SPA nor the Lough Swilly SAC or any other European site, in view of the Conservation Objectives of these sites.

The proposed development will not prevent or delay conservation objective set for the screened in European Sites.

My conclusion is based on a complete assessment of all aspects of the proposed project as provided in the Natura Impact Statement and there is no reasonable doubt as to the absence of adverse effects.

This conclusion is based on:

- a full and detailed assessment of all aspects of the proposed project, including proposed mitigation measures and environmental monitoring of the Conservation Objectives of each European Site referenced above,
- an assessment of in-combination effects with other plans and projects including existing statutory plans, historical projects, current / permitted proposals and future plans, and
- There being no reasonable scientific doubt as to the absence of adverse effects on the integrity of these European sites.

Appendix 3:

Copy of Form 1 (EIA Pre-Screening) and Copy of Form 2 (EIA Preliminary Examination)

Form 1

EIA Pre-Screening

An Bord Pleanála	ABP-317749-23	
Case Reference		
Proposed Development	The proposed development will consist of the	
Summarv	Construction and continuous operation of an agricultural	
,	biogas renewable energy facility consisting of:	
	• 3 No. Primary Digester Tanks; 2 No. Post Digestor	
	Tanks with Pumproom; Pasteurisation unit with auxiliary	
	tanks; Emergency Flare with base and security fencing; 3	
	No. Agricultural Solid Feeders with associated concrete	
	bases; 2 No. Underground Pre-reception tanks; 2 No.	
	Covered Agricultural Digestate Storage Tanks; Gas	
	Combined Heat & Power (CHP) Unit with concrete base	
	Site Office/Control Building with associated staff car	
	parking area and wastewater treatment system and	
	percolating area; Biogas upgrading treatment and	
	compression system; Electric Transformer and Sub-	
	Station with security fence; Agricultural feedstock storage	
	facility; Nutrient Recovery System with ancillary tanks	
	and equipment; 4 No. Ammonium Sulphate Solution	
	(ASS) storage tanks with concrete bases; Digestate	
	Drying and Pelletising Plant; Pellet storage facility;	
	Weighbridge; Construct new access and entrance	
	improvement works; Site lighting with security cameras;	
	Surface Water Drainage Systems with storage pond and	
	discharge system; Boundary earth bunded areas,	

project for the purposes o		No		
I. Does the proposed develop	ment come within the definition of a	Yes	X	
Development Address	Maylin, Newtowncunningham, Co. Do	onegal		
	gas grid network.	<u>.</u>		
	proposed by Gas Networks Ireland (G	SNI) on	the national	
	transported to one of the proposed ga	is injec	tion points	
	and then transported off site to local c	ustom	ers or	
	produced will be upgraded to biometh	ane at	the facility	
	with less than 20% farm-by product. The biomass			
	facility, approximately 80% will be cro	p-base	d materials	
	fertiliser. Of the total volume of materi	als use	ed in the	
	substrate will be processed into a sus	tainabl	le bio	
	will then be ungraded to biomethane	nese ir nas Th	ipuls which	
	The facility will generate biogen with th			
	Total input toppage: 41 500			
	Beet – 5.500 tonnes			
	Hybrid Winter Rye – 12,000 tonn	es		
	Cattle Slurry – 10,000 tonnes			
	Farm Yard Manure – 4,000 tonne	es		
	Grass Silage – 10,000 tonnes			
	proposed development are as follows			
	component materials or feedstock req	uired f	or the	
	The approximate volumes (per annum	n) of th	e various	
	ancillary works on Lands measuring 4	.7 hec	tares.	
	landscaping and boundary security fer	ncing;	And all	

(that is invo	olving cons	struction works, demolition, or interventions in the	
natural sur	roundings)		
2. Is the pro Planning	posed dev and Devel	velopment of a CLASS specified in Part 1 or Pa lopment Regulations 2001 (as amended)?	rt 2, Schedule 5,
Yes	x	Proceed to Q3.	
		(b) Installations for the disposal of waste with	
		an annual intake greater than 25,000 tonnes	
<u> </u>		not included in Part 1 of this Schedule.	
Νο			
Uncertain	Х	I am of the view that, it is also possible the	See commentary
		proposed development could fall into the	below.
		following category:	
		Schedule 5, Part 1 Type 6 - Integrated	
		chemical installations, i.e. those installations	
		for the manufacture on an industrial scale of	
		substances using chemical conversion	
		processes, in which several units are	
		juxtaposed and are functionally linked to one	
		another and which are-	
		(a) for the production of basic organic	
		chemicals,	
		(b) for the production of basic inorganic	
		chemicals,	
		(c) for the production of phosphorous,	
		nitrogen or potassium based fertilisers (simple	
		or compound fertilisers),	

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(d) for the production of basic plant health
products and of biocides,
(e) for the production of basic
pharmaceutical products using a chemical or
biological process,
(f) for the production of explosives.
Comment
The nature of the proposed development
involves the production of biogas through the
processing of agricultural inputs by way of
anaerobic digestion with the resulting end
products including the generation of biogas as
well as digestate for use as an organic farm
fertiliser. The biogas is then upgraded to
biomethane (which is c99% methane), a basic
organic chemical (which includes simple
hydrocarbons such as methane ¹). I would note
also that Carbon Dioxide (CO2) is also
produced in the process and this is
categorised as a 'basic inorganic chemical' ² .
In terms of whether the process of anaerobic
digestion can be defined as a 'chemical
conversion process', I refer to EU guidance on
same which states that 'a chemical conversion
processes imply that transformation by one or
more chemical reactions take place durin gthe

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¹ Page 25 of <u>https.//op.europa.eu/en/publication-detai/- /public ation/e7f9c 73c86ba-11ef-a67d-01aa75ed71a1</u>

² Page 25 of https://op.europa.eu/en/publication-detail/-/publication/e7f9c73c-86ba-11ef-a67d-01aa75ed71a1

	production process. This also holds for a	
	biotechnological or biological process that is	
	mostly associated with a chemical conversion	
	(e.g. fermentation).' While not explicitly	
	referred to in the EU guidance document, the	
	anaerobic digestion process is also a biological	
	process, which coverts organic matter into	
	inter alia methane and carbon dioxide.	
	In terms of whether the proposed development	
	is 'Integrated', 'juxtaposed' and 'functionally	
	linked', I refer also to the EU guidance on	
	same. This states that inter alia 'the basis for	
	interpretation of 'integration' would be that	
	various units are present and a linkage	
	between various parts of a chemical plant	
	exists. The functional linkage will be primarily	
	via a process pathway, i.e. the various units of	
	the installation serve a common purpose by	
	producing intermediates or input material	
	(precursors, auxiliary agents etc.) for other	
	units. The various elements of the plant will	
	therefore contribute to producing a finished	
	product (or products), although it is possible	
	that part of the intermediates or input materials	
	produced in the plant will also be placed on the	
	market ³ .	

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³ Page 26 of https://op.europa.eu/en/publication-detail/-/publication/e7f9c73c-86ba-11ef-a67d-01aa75ed71a1

In terms of structures, or units, on the site, the	
storage tanks, digester tanks, and other	
structures on site could be defined as	
integrated and functionally linked, as per the	
definition above, and in terms of positioning	
are 'juxtaposed' (i.e. side by side). The	
common purpose of the units is the production	
of Biomethane and CO2, with various by-	
products also produced (for the commercial	
market).	
In relation to the definition of 'Industrial Scale',	
there is further EU Guidance on same⁴ and I	
refer to same here. Factors to be considered	
include such factors as the nature of the	
product, the industrial character of the plant	
and machinery used, production volume,	
commercial purpose, production solely for own	
use and environmental impact.	
The nature of the product is as discussed	
above. I am of the view that manufacture of	
biomethane, and the other associated outputs	
as discussed above, is generally carried out on	
an industrial scale.	
In terms of the character of the plant and	
machinery used such plant and machinery	
	In terms of structures, or units, on the site, the storage tanks, digester tanks, and other structures on site could be defined as integrated and functionally linked, as per the definition above, and in terms of positioning are 'juxtaposed' (i.e. side by side). The common purpose of the units is the production of Biomethane and CO2, with various by- products also produced (for the commercial market). In relation to the definition of 'Industrial Scale', there is further EU Guidance on same ⁴ and I refer to same here. Factors to be considered include such factors as the nature of the product, the industrial character of the plant and machinery used, production volume, commercial purpose, production solely for own use and environmental impact. The nature of the product is as discussed above. I am of the view that manufacture of biomethane, and the other associated outputs as discussed above, is generally carried out on an industrial scale. In terms of the character of the plant and machinery used, such plant and machinery used, such plant and machinery used, such plant and

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⁴ The concept of 'industrial scale' is defined under ANSWERS GIVEN BY DG ENVIRONMENT ON THE IMPLEMENTATION OF THE INDUSTRIAL EMISSIONS DIRECTIVE – ANNEX I [Circabc (europa.eu)]. https://circabc.europa.eu/ui/group/06f33a94-9829-4eee-b187-21bb783a0fbf/library/a48be361-4d5c-4a40-abaf-fe5d5fa0f686/details

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	utilised in this instance could be defined as
	industrial in nature. The proposed
	development site extends to a site area of 4.7
	hectares. In terms of structures on the site, the
	proposed development will consist of 2 X
	digestate storage tanks, 3 x primary digester
	tanks, 2 x secondary digester tanks, an
	agricultural storage shed and 2 smaller sheds
	for nutrient recovery and pelletising. A two-
	storey staff office building is also proposed, as
	well as a number of smaller ancillary structures
	and tanks on the site. In terms of the height,
	the 'Nutrient Recovery' shed being the tallest
	structure on the site, with a height of 11.5m.
	Other structures are generally lower than this.
	The storage clamp building is relatively large in
	floor area (4740sq. m) but is limited in height at
	10.1m. The proposed development could be
	considered an industrial complex, or as having
	the appearance of an industrial complex.
	In terms of production volume, I would be of
	the view that both inputs (into the production
	process) and outputs are of consideration
	here. The total volume of inputs to the
	anaerobic digestors is as 41,500 tonnes per
	annum (113.7 tonnes per day). As such the
	installation capacity of the plant would appear
	to be at least 113.7 tonnes per day, although
	the clarification of same should be sought from

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the applicant in this regard. I am of the view
that this could be considered a significant
volume of material. The total outputs, as per
information on file, is as follows:
Gas
Methane: 8,553 m3 per day
Carbon Dioxide – CO2: 5,616 m3 per day
Fertilizer
Ammonium Sulphate Solution: 3.6 m3 per
day
Concentrated digestate pelleted prior to
use as an organic fertilizer (11.6 tonnes per
day)
I note the legal opinion on file relating to same,
in which it is stated that the volumes of the
chemical by-products (which I assume refers
to the Ammonium Sulphate Solution only)
cannot be considered industrial in scale. While
I accept that the production of Ammonium
Sulphate Solution (3.6 m3 per day) as a by-
product, in and of itself, would not be
considered industrial in scale, I am of the view
that the entirety of the outputs cannot be
considered insignificant, and such outputs
could potentially be considered industrial in
scale.
The commercial purpose of the proposed
outputs are also of relevance here and I note
that the outputs produced here are for the

		 _
	commercial market, with EU guidance on	
	same noting that 'the fact that the activity is	
	carried out for "commercial purposes" may be	
	a strong indicator of "industrial scale"5.	
	This same EU guidance notes that it is	
	importance to take account of the potential	
	environmental impact of a production	
	sequence also when determining if an activity	
	can be defined as industrial. In this regard, I	
	would note that potential significant	
	environmental impacts of this particular activity	
	could include impacts on water quality, impacts	
	on air quality (including odour impacts),	I
	impacts on biodiversity, impacts on land, soil	
	and geology, noise impacts, impact on	
	landscape and visual impacts as well as	
	impacts on the road network associated with	
	traffic movements.	
	It is also possible that the proposed	
	development could fall within the following	
	categories:	
	Schedule 5, Part 2, Type 6	
	(a) Installations for treatment of intermediate	
	products and production of chemicals using a	
	chemical or biological process.	

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⁵ https://circabc.europa.eu/ui/group/06f33a94-9829-4eee-b187-21bb783a0fbf/library/a48be361-4d5c-4a40-abaf-fe5d5fa0f686/details

(d) Storage facilities for petrochemical and
chemical products, where such facilities are
storage to which the provisions of Articles 9,
11 and 13 of Council Directive 96/82/EC6
apply.
Schedule 5, Part 1, Type 9 Waste disposal
installations for the incineration, chemical
treatment as defined in Annex IIA to Directive
75/442/EEC3 under heading D9, or landfill of
hazardous waste (i.e. waste to which Directive
91/689/EEC4 applies).
Schedule 5, Part 1, Type 10 Waste disposal
installations for the incineration or chemical
treatment as defined in Annex IIA to Directive
75/442/EEC under heading D9, of non-
hazardous waste with a capacity exceeding
100 tonnes per day.
Schedule 5, Part 1, Type 21. Installations for
storage of petroleum, petrochemical, or
chemical products with a capacity of 200,000
tonnes or more In this regard, the applicant
should also provide information in relation to
the total volume of gas storage proposed on
the site.
Schedule 5, Part 2, Type 3 Energy Industry

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	(a). Industrial installations for the production of	
	electricity, steam and hot water not included in	
	Part 1 of this Schedule with a heat output of	
	300 megawatts or more.	
	(b) Industrial installations for carrying gas,	
	steam and hot water with a potential heat	
	output of 300 megawatts or more.	
	(c) Installations for surface storage of natural	
	gas, where the storage capacity would exceed	-
	200 tonnes.	
	In this regard, the applicant should also	
	provide information in relation to the total	
	volume of gas storage proposed on the site (in	
	terms of cubic metres and tonnes) and	
	information in relation to the heat/power output	
	of the proposed Combined Heat & Power Plant	
	(CHP).	
	Schedule 5, Part 2, Type 15 Any project listed	
	in this Part which does not exceed a quantity,	
	area or other limit specified in this Part in	
	respect of the relevant class of development	
	but which would be likely to have significant	1
	effects on the environment, having regard to	I
	the criteria set out in Schedule 7.	
	Comment	
	The nature of the proposed development is	
	such that it is possible the above categories	

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 could apply. In particular, it is noted in the
relevant EU Guidance document that waste
disposal categories can be relevant to biogas
projects, depending on the project's scope ⁶ .
The applicant should be requested to consider
if the above categories are relevant to the
proposed development, with reference to the
scale and nature of the proposed
development, including a consideration of the
installation capacity of the facility.
Conclusion
In relation to the above, the applicant should
be asked to provide an EIA Screening Report*,
which comprehensively addresses the above
categories, and all other potentially relevant
categories of Part 1 or Part 2, Schedule 5,
Planning and Development Regulations 2001
(as amended), and which includes sufficient
information so as to accord with Schedule 7A
of the Planning and Development Regulations,
2001 (as amended).
*The applicant has submitted a document
entitled Environmental Report. The report
contains environmental information and related
appendices but does not explicitly refer to
Schedule 7A information.

⁶ Page 9 of https://op.europa.eu/en/publication-detail/-/publication/e7f9c73c-86ba-11ef-a67d-01aa75ed71a1

3. Does the in the rel	proposed evant Class	development equal or exceed any relevant TH s?	IRESHOLD set out
Yes			
No	X (in	Schedule 5 Part 2 Type 11 Other Projects (b)	Proceed to Q4
	relation	Installations for the disposal of waste with an	
	to	annual intake greater than 25,000 tonnes not	
	Schedule	included in Part 1 of this Schedule.	
	5 Part 2		
	Туре		
	11(b)		
	only.		
Uncertain	х	See commentary above in relation to other	
		potential categories.	
4. Is the pro developm	posed deve ent [sub-th	elopment below the relevant threshold for the reshold development]?	Class of
Yes (in	x	The Board is advised that under Article 2(1)(f)	Preliminary
relation to		of the Waste Framework Directive	examination
Schedule 5		2008/98/EC, exclusions from the scope of the	required (Form 2)
Part 2 Type		Directive include "faecal matter, if not covered	
11 (b) only)		by paragraph 2(b), straw and other natural	
		non-hazardous agricultural or forestry material	
		used in farming, forestry or for the production	
		of energy from such biomass through	
		processes or methods which do not harm the	
		environment or endanger human health." In	
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"waste" as per the Directive. However, Article
2(2)(b) of the Directive clarifies that "animal by-
products which are destined for use in a
biogas or composting plant" do fall within the
scope of the Directive. Such products would
include cattle slurry and farmyard manure,
which are inputs into the AD process proposed
here.
By reference to Class 11(a) of Part 2 of
Schedule 5 of the Planning and Development
Regulations, 2001, as amended, installations
for the disposal of waste with an annual intake
greater than 25,000 tonnes necessitate
mandatory Environmental Impact Assessment
EIA). In the subject instance, while the annual
intake for the proposed development amounts
to 41,500 tonnes (with reference to the
submitted Environmental Report), only the
10,000 tonnes of cattle slurry and 4,000 tonnes
of farmyard manure can be categorised as
"waste" as per Article 2(1)(f) of the Waste
Framework Directive. The proposal is therefore
sub-threshold for the purposes of EIA.

5. Has Schedule 7A information been submitted?				
No	x	Pre-screening determination conclusion		
	remains as above (Q1 to Q4)			

Yes			
Inspector:	4	Date: 8/1/25	

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Form 2

An Bord Pleanála Case Reference	ABP-317749-23		
Proposed Development Summary	As per Form 1 above.		
Development Address	As per Form 1 above		
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Plannin and Development regulations 2001, as amended] of at least the nature, size location of the proposed development, having regard to the criteria set out Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the re of the Inspector's Report attached herewith.			
Characteristics of proposed development	The nature of the proposed		
(In particular, the size, design, cumulation with	development is considered in		
existing/proposed development, nature of	detail in Form 1 above and, in		
demolition works, use of natural resources,	summary, involves the		
production of waste, pollution and nuisance, risk of	production of biogas through the		
accidents/disasters and to human health).	processing of agricultural inputs		
	by way of anaerobic digestion		
	with the resulting end products		
	including the generation of		
	biogas as well as digestate for		
	use as an organic farm fertiliser.		
	However, I am of the view		
	insufficient information has been		
	provided in relation to the nature		
	of the proposed development,		
	including the nature of the		
	proposed outputs, the		

EIA Preliminary Examination

installation capacity of the plant, the total storage capacity of the plant (in terms of gas storage) and the heat/energy output of the CHP Plant. As such the nature of the proposed development has not been clarified to a sufficient degree and in this regard significant environmental impacts relating to same cannot be ruled out. Having regard to the information that is on file, I am of the view that the proposed development could be considered as having the appearance of an industrial complex, and the nature of the development would appear to be the production of an organic chemical (methane) and other products, which is unusual or exceptional in the context of the existing rural environment, given the nature of the existing site and the nature of the surrounding land uses, which are predominantly agricultural. The site is situated in a rural area some way from any

existing complex of farm buildings, or other commercial or industrial buildings or complexes. Given the scale and assortment of buildings and infrastructure proposed would not resemble the appearance of an agricultural development.

I would note that the potential significant environmental impacts of this particular activity could include impacts on water quality, impacts on air quality (including odour impacts), impacts on biodiversity, impacts on land, soil and geology, noise impacts, impact on landscape and visual impacts as well as impacts on the road network associated with traffic movements. I note the submission of an Environmental Report with the application which seeks to address the above aspects. However, in the absence of additional information in relation to the nature of the proposed development, as set out above, I

	am of the view that the likelihood
	of significant environmental
	impacts relating to same cannot
	be ruled out.
Location of development	
(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	As noted above, the site is rural
	As noted above, the site is rural
	In nature and the surrounding
	agricultural. The site is a
	greentield site. While the site is
	set back from any adjoining
	watercourses, and is not
	surrounded by residential
	development, the potential for
	significant impacts on the
	surrounding environment as
	described above, cannot be
	ruled out, given the absence of
	sufficient information in relation
	to the nature of the proposed
	development.
	The site is not located in or
	adjacent to a European site nor
	within an area of cultural or
	archaeological significance.

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Types and characteristics of potential impacts

(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).

Having regard to the considerations above I am of the view that likely significant impacts on the environment, including impacts on air quality (including odour impacts), impacts on biodiversity, impacts on land, soil and geology, noise impacts, impact on landscape and visual impacts, cannot be ruled out. Impacts on biodiversity, and landscape and visual impacts, would likely be limited to the site and the immediate surroundings, although any impacts on water quality could be more geographically dispersed noting that drainage ditches to the north of the site eventually join with surrounding surface water bodies. Impacts on groundwater could also be more widespread. Impact on air quality, including odour, could also be more widespread.

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	Conclusion
Likelihood of Significant Effects	Conclusion in respect of EIA
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.
ector:	Date: \$/1/25

(only where Schedule 7A information or EIAR required)

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Appendix 4:

EIA Screening Determination

A. CASE DETAILS	
An Bord Pleanála Case Reference	ABP-317749-23
Development Summary	The proposed development will consist of the Construction and continuous operation of an agricultural biogas renewable energy facility consisting of:
	 3 No. Primary Digester Tanks; 2 No. Post Digestor Tanks with Pumproom;
	Pasteurisation unit with auxiliary tanks; Emergency Flare with base and security
	fencing; 3 No. Agricultural Solid Feeders with associated concrete bases; 2 No.
	Underground Pre-reception tanks; 2 No. Covered Agricultural Digestate Storage
	Tanks; Gas Combined Heat & Power (CHP) Unit with concrete base; Site
	Office/Control Building with associated staff car parking area and wastewater
	treatment system and percolating area; Biogas upgrading treatment and compression
	system; Electric Transformer and Sub-Station with security fence; Agricultural
	feedstock storage facility; Nutrient Recovery System with ancillary tanks and
	equipment; 4 No. Ammonium Sulphate Solution (ASS) storage tanks with concrete
	bases; Digestate Drying and Pelletising Plant; Pellet storage facility; Weighbridge;
	Construct new access and entrance improvement works; Site lighting with security
	cameras; Surface Water Drainage Systems with storage pond and discharge system;
	Boundary earth bunded areas, landscaping and boundary security fencing; And all
	ancillary works on Lands measuring 4.7 hectares.

	The appr	oximate volumes (per annum) of the various component materials or feedstock
	required 1	or the proposed development are as follows:
	• Gras	s Silage – 10,000 tonnes
	• Farm	Yard Manure – 4,000 tonnes
	Cattl	e Slurry – 10,000 tonnes
	• Hybr	id Winter Rye – 12,000 tonnes
	• Beet	– 5,500 tonnes
	Total inpu	it tonnage: 41,500
	The facili	y will generate biogas with these inputs which will then be upgraded to
	biometha	ne gas. The remaining substrate will be processed into a sustainable bio
	fertiliser.	Of the total volume of materials used in the facility, approximately 80% will be
	crop-bas	ed materials with less than 20% farm-by product. The biomass produced will
	be upgra	ded to biomethane at the facility and then transported off site to local
	customer	s or transported to one of the proposed gas injection points proposed by Gas
	Networks	Ireland (GNI) on the national gas grid network.
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Q	
 Has Schedule 7A information been submitted? 	Yes	Schedule 7A information was requested by the Board on 15 th January 2025. This was received on 11 th February 2025, as part of an 'Environmental Impact Assessment Screening Report' (dated February 2025).

 Has an AA screening report or NIS been submitted? 	Yes	An NIS has been submitted with the application and consi Habitats Directive (92/43/EEC) and the Birds Directive (20	ders the content of 09/147/EC).	
4 . Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	Uncertain	The EPA has submitted by way of letter dated 18th March possible to determine from the planning documentation if t will require a licence from the EPA and that the applicant s EPA so a determination may be made.	2025 that it is not he proposed activity hould contact the	
 Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA 	Yes	 An Environmental Report (with associated appendices Section 2.1.1 of this report) which considers the conter Directive (92/43/EEC), the Birds Directive (2009/147/E Framework Directive (2000/60/EC) and the Clean Air f Directive (2008/50/EC). SEA was undertaken by the planning authority in respe Donegal Development Plan 2024-2030. 	as detailed in its of the Habitats C), the Water or Europe (CAFÉ) ect of the County	
B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	ls this likely to result in significant effects on the environment? Yes/ No/ Uncertain	
This screening examination should be read with, an	id in light of,	he rest of the Inspector's Report attached herewith		
1. Characteristics of proposed development (includir	ng demolition,	construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	Yes	The existing site and surrounds are agricultural in nature. The site is situated in a rural area some way from any existing complex of farm buildings, or other commercial or industrial buildings or complexes.	2	

The proposed development involves the production of biogas through the processing of agricultural inputs by way of anaerobic digestion with the resulting end products including the generation of biogas as well as digestate for use as an organic farm fertiliser.	The site extends to an area of 4.7 hectares. In terms of structures on the site, the proposed development will consist of 2 X digestate storage tanks, 3 x primary digester tanks, 2 x secondary digester tanks, an agricultural storage shed and 2 smaller sheds for nutrient recovery and	pelletising. A two-storey staff office building is also proposed, as well as a number of smaller ancillary structures and tanks on the site. In terms of the height, the 'Nutrient Recovery' shed being the tallest structure on the site, with a height of	11.5m. Other structures are generally lower than this. The storage clamp building is relatively large in floor area (4740sq. m) but is limited in height at 10.1m.	The proposed development could be considered an industrial in appearance, and as such the development could be considered significantly different to the character and scale of the surrounding environment.	However, I am satisfied that any potential significant environmental effect that could arise from the proposed development can be reduced, avoided or off-set through the range of mitigation measures as set out in the application documentation, as considered in the below assessment.	Accordingly, I do not consider that the introduction of a development that is significantly

.2 Will construction, operation, lecommissioning or demolition works cause physical changes to the locality (topography, and use, waterbodies)?	different in character or scale to the existing surrounding or environment will likely result in significant effects on the environment. The site is greenfield in nature and most recently agricultural in use. The proposed biogas plant would result in a change to the land use of the site from an agriculture field to a biogas production plant. The project would cause physical changes to the site during the site development works (i.e. site clearance works, and construction activities). There would be changes to the topography of the site, which currently slopes from south to north (from approx. 58m OD to 46m OD) to facilitate the construction of the biogas plant and the project will involve ground alteration and reprofiling to facilitate buildings, plant, access routes and site services. The finished level of the site is shown as 50m OD. No waterbodies would be altered by way of physical alteration. While the changes above are noted, I am satisfied that any potential significant evolution documentation, as considered in the below assessment.	2	
	changes arising from the project are likely to result in significant effects on the environment in terms of topography, land use, and hydrology/		

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The project uses generation of a materials and equipment, and the process would be managed through the implementation of a Construction Environment Management Plan, as submitted with application sets out a methodology and sequence for construction works, including the use of excess sub-soils for the construction of berms and landscaping. In relation to water, measures to ensure protection of surrounding surface water drainage (i.e. the drain to the north of the site) during the construction stage are set out in the Preliminary CEMP. In addition, Chapter 7 of the protection of surrounding surface water drainage (i.e. the drain to the north of the site) during the construction stage are set out in the Preliminary CEMP. In addition, Chapter 7 of the protection of surface water and relate to construction and operational phase measures. The appropriate storage and disposal of wastes are also set out in the Preliminary CEMP. I would note that if the Board were minded to grant permission a final agreed CEMP would be recommended to be agreed by condition. In terms of use of sume sturtural feedstocks (including hybrid winter rye, beet, grass slage, farmyard manure and surry) from surrounding farmyard manure and surry) from surrounding farmyard manure and surry from surrounding farmy further terms is supported at national level, most notably without significant negative effects on the nat	
S	
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially esources which are non-renewable or in short supply?	

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In terms of water use at operational stage, I note that all surface water is recycled on the site and only in very heavy rain conditions will there be a discharge off site. In addition, water generated during the digestate production process will be reused back in the process.	In terms of energy, I would note that at operational phase, biogas is used to power an onsite Combined Heat and Power Plant (CHP). In this regard, some of the gas produced from the digester is feed to a CHP, which generate both heat and electricity, with the electricity used for the power requirements of the plant, and the heat generated is utilised for the thermal requirements of the plant. As such, the project minimises non- renewable energy use at the operational stage.	Having regard to the above, I am satisfied that any potential significant environmental effects that could arise from the use of natural resources can avoided, reduced or off-set through the range of mitigation measures as set out in the application documentation.	Accordingly, I do not consider that the use of natural resources arising from the project are likely to result in significant effects on the environment in terms of topography, land use, and hydrology/ hydrogeology.	The proposed biogas plant would utilise inputs (slurries and farmyard manure for example) and would produce outputs (biogas, biomethane and CO ₂). It is set out that there would be transport of these outputs off the site. In and of themselves, these inputs and output could be harmful to
				Yes
				4 Will the project involve the use, storage, insport, handling or production of substance nich would be harmful to human health or the vironment?

human health and the environment. However, the	which will minimise risks to human health, with	appropriate input mechanisms to reduce outous	from slurry for example, or spinages of same, we	could Inipact directly of managery of the production, storage and	transportation procedures as relates to outputs	from the facility will ensure that no direct or	indirect effects on human health or the	environment will result, for example, entrer	directly from the substances themselves, or induit	odours or emissions. Impacts from the aspecta of	air anality within the surrounding area have been	considered in supporting reports (for example in	the Air Quality Impact Assessment as contained	in Appendix IV of the Environmental Report, and	in the Odour Management Plan as contained in	Appendix V of the Environmental Report) which	address these issues and wherein it is concluded	that the any potential impacts are capable of	being satisfactorily mitigated.	Having regard to the above, I am satisfied that	any potential significant environmental effects of	effects on human health that could arise it whetheres	use, storage, transport or nandling of substances	as described above can be avolueu, reused of	off-set through the lange of magazine more and the application documentation.	Accordingly, I do not consider that the use,	storage, transport or handling of substances as	described above are likely to result in significant	At construction stage there is potential to release pollutants into the drainage ditch to the north of	the site. As noted above, the measures as set out
																												-	Yes	
																													1.5 Will the project produce solid waste, release	pollutants of any nazaroous toxics to see substances?

source of air emissions will be from the Combined any potential significant environmental effects that Accordingly, as risks arising from solid waste, the eleased through a 5m stack, which is situated on the release of pollutants or any hazardous / toxic / noxious substances the use, storage, transport or Environmental Report, will ensure that risks from from the stack is in the form of gaseous vapours, off-set through the range of mitigation measures including NO2, SO2, PM10 and CO). However, i appropriate handling of same will ensure that no s concluded with same that was concluded that significant environmental effects result from the handling of substances as described above are n the Preliminary CEMP, and as set out in the Accordingly, I do not consider that solid waste. Having regard to the above, I am satisfied that substances above can be avoided, reduced or elease of pollutants or any hazardous / toxic / op of the CHP container. The main emission Heat and Power (CHP) Plant. Emissions are exceeded. The inputs (slurries, manure) and outputs (biogas, biomethane, CO₂) from the pollutants or any hazardous / toxic / noxious submitted Air Quality Assessment, the main considered hazardous, toxic and/or noxious as set out in the application documentation. substances. However, as discussed above, could arise from solid waste, the release of the relevant air quality thresholds were not At operational stage, and as set out in the facility, as described above, could also be likely to result in significant effects on the environment or on human health. operation of the facility. same are mitigated

discharged from the site.	 the site) during the construction stage are set out in the Preliminary CEMP. In addition. Chapter 7 of the Environmental Report, with reference to the Water Management Plan included in Appendix III of same, addresses measures to ensure protection of surface water. and relate to construction and operational phase measures, and same are detailed below. Those measures at construction phase include, but are not limited to, buffer zones of at least 10m from open watercourses, as well as appropriate measures in relation to accidental spillages. Further operational stage measures in relation to accidental spillages. Further operational stage measures in relation to accidental spillages. Further operational stage measures in relation to accidental spillages. Further operational stage measures in the attenuation/settlement pond with a controlled discharge rate. Surface water directed to the attenuation/settlement pond with a controlled discharge rate. Surface water directed to the attenuation/settlement pond with a controlled discharge rate.
	 Volume of water being discharged recorded

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 Discharge from the pond will pass through an oil interceptor. Electronic monitoring of discharge water/should monitoring indicate issues with water quality, value will be automatically closed on the discharge pipe. 	Accordingly, as risks of contamination to water bodies are mitigated and managed, I do not consider this aspect of the project likely to result in a significant effect on the environment.	In relation to noise, at construction stage, it is likely that there would be some noise associated with same. In this regard, I would note that a Noise Impact Assessment Report has been submitted with the application (as contained in Appendix VI of the Environmental Report). Noise levels at construction stage were found to be at levels that are typically deemed acceptable (with reference to TII Guidelines). At operational stage, it is likely that there will be some noise impacts from the operation of plant for example. As set out in the Noise Impact Assessment Report, the main noise sources at operational stage relate to mechanical plant. It is set out that the plant will be designed to have a rating level that is lower than the background noise level. However, and as per the findings of the Noise Impact Assessment Report, it can be concluded that, given distance between the plant and the receptors, operational noise from the proposed development is likely to have a low impact on the neighbouring residential properties, with mitigation measures in place. In relation to vibration, while there is some potential for construction activities to result in vibration, I would note that there is no evidence
		Kes Kes
		.7 Will the project cause noise and vibration or elease of light, heat, energy or electromagnetic adiation?

light pollution and excess heat are mitigated and stage, has recommended a condition in relation to heat to the required thermal loads throughout the light to a previously dark area. It is recommended Should the Board be minded to grant permission thermal heat generated at the CHP is transferred In relation to lighting, there is potential for lighting that *inter alia* a lighting plan is submitted, in order operational state, and in this regard I would note radiation at construction stage or at operational to ensure that light pollution is minimised, in the Accordingly, as risks related to noise, vibration. plant. As such, the heat generated is reused in (DHLGH) [dated 29th June 2023], at application involve the use of a Combined Heat and Power the operational processes within the plant, and managed, I do not consider this aspect of the to a heat header system which distributes the development would produce electromagnetic lighting, noting that the development will bring would recommended that such a condition be which generate both heat and electricity. The In relation to heat, the production process will produced from the digester is feed to a CHP, Plant (CHP). In this regard, some of the gas there is no release of same such that would interest of protecting wildlife more generally. necessitate construction methods that would result in vibration levels such that significant that the submission from the Department of impacts at both the construction stage and Housing, Local Government and Heritage There is no evidence that the proposed cause significant environmental effects. effects could result from same. imposed. stage.

Poterintari impacts on an yearing and water contamination. Such health from inputs and outputs considered above, and I have significant risks will result from an expropriate mitigation. Risks to rom are pollution are considered above, and I am as to mitigation, no significant risk will result from same. Risks to result of water pollution are als above, and subject to mitigation is an output in a significant risk of major accidents Bany risk of major accidents No I would note that gaseous production and are pollution are also will result.	sed development, an health, from the d on site, and from y, noise pollution ch risks to human ch risks to human ch risks to human e concluded that no n same, subject to to human health red above, and cent risks will result pacts are also attisfied that subject to human health to human health pacts are also attisfied that subject to human health to human health to numan health o human health to above, and cent risks will result pacts are also attisfied that subject to human health to above, and con no significant risk on no significant risk o water n are mitigated and its aspect of the ificant effect on the ificant effect on the ificant effect on the ards, the applicant mary Report' as on 11th February considers the inces stored, used d facility and attuitions that were
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ect affect the social ulation, employment) ect affect the social ulation, employment) constructi works are arising wc CEMP, ar
CEMP, ar The opera result in e potential (
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in terms of employment and economic effects, would not be significant, Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the social environment of the area. There is no evidence that the proposed project is part of a wider large-scale change. I would note the applicant's EIA Screening Report (dated February 2025) has set out that there are no other developments located in the vicinity that could result in a cumulative impact. I am satisfied that there is no evidence that similar projects are proposed or permitted in the local area, such that cumulative effects on the environment could result, nor is there any evidence that other larger scale development are proposed or permitted in	ure rocal area, such that cumulative effects on the environment could result.	The project is not located in, on, or adjoining any European site. The closest European sites are the Lough Swilly SPA (004075) c2.2km to the west (3.3 km downstream distance); Lough Swilly SAC (002287) c2.7km to the west and north-west; River Finn SAC (002301) c8.2km to the south- east and Leannan River SAC (002176) c8.7km to the north-west. It terms of the hydrology of the surrounding area, the application documentation describes drainage diches within the native woodland to the north of the site are also described, which eventually discharge to a local stream, north-east of the site, via other drainage ditches. This stream eventually joins the Drumbarnet Stream close to the intersection of the public road with the N13 road.
ê	_	Yes
 .11 Is the project part of a wider large scale hange that could result in cumulative effects on he environment? 	. Location of proposed development	 1 Is the proposed development located on, in, djoining or have the potential to impact on any f the following: European site (SAC/ SPA/ pSAC/ pSPA) NHA/ pNHA Designated Nature Reserve Designated refuge for flora or fauna Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan

		The AA Screening Report 'screens-in Lough	
		Swilly SPA (004075) and Lough Swilly SAC	
		(002287), given the potential pathway between	
		the site and these 2 no. Natura sites by means of	
		the local drainage network. It is concluded that	
		indirect impacts from discharge of contaminated	
		run-off during the constriction and or operational	
		phases could result on same. I would note that	
		application is accompanied by a Natura Impact	
		Assessment (NIS). I have carried out a Stage 2	
		Appropriate Assessment and I refer the Board to	
		Appendix 1 of this report which details same.	
		Therein I have concluded that proposed	
		development, individually or in combination with	
		other plans or projects would not adversely affect	
		the integrity of the Lough Swilly SPA nor the	
		I ough Swilly SAC or any other European site, in	
		view of the Conservation Objectives of these sites	
		and the proposed development will not prevent or	
		delay conservation objectives set for the	
		screened in European Sites.	
		In terms of nationally designated sites, the closest	
		is 'Lough Swilly Including Big Isle, Blanket Nook &	
		Inch Lake pNHA (Site Code: 000166) situated	
		approximately 3.1km west of the Blogas Plant.	
		I am satisfied that, with the mitigation measures	
		proposed in the application documentation,	
		including but not limited to, the Preliminary	
		CEMP, the proposed development will not nave	
		any significant effect on this pNHA, nor on any	
		other designated or proposed NHA, or any outer	
		listed area of ecological interest or protection.	
		Accordingly, I do not consider the proposed	
		development project is likely to result in a	
		significant effect on the environment in composi- acclorical designations or biodiversity.	
2.2 Could any protected, important or sensitive	No	As set out in the applicant's EIA Screening Report and as supported by the applicant's	
species of flora or fauna which use areas on or			

Environmental Report, and as supported by the	Natura Impact Statement, there are no habitats of	ecological significance located at the application	site, and the site was determined to be of low	ecological value. The ground is arable and	improved agricultural grassland at present, and	no species of ecological interest were noted	during the field study. As evidenced within the	NIS, that there are no aquatic habitats within the	proposed development area, and the small	drainage ditches do not have any fisheries value,	due to the seasonal flow regime and distance	from any main streams. In terms of bird species,	the nature of the site is one that could support	feeding and foraging geese (i.e. the dominant	habitat is improved agricultural grassland).	However, the Ornithological Report (as set out in	Appendix II of the Environmental Repo) notes that	there was no evidence of feeding or foraging of	geese on the site, following bird surveys carried	out between November 2022 and March 2023	and subsequently, the Environmental Report	concludes that the development will not have an	impact on any bird species.	No impacts on bats were expected as there were	limited resources on site to support same.	Notwithstanding, I note that the DHLGH has	recommend a condition in relation to lighting,	noting that the development will bring light to a	previously dark area. It is recommended that inter	alia a lighting plan is submitted, in order to ensure	that light pollution is minimised, in the interest of	protecting wildlife more generally. Should the	Board be minded to grant permission, I would	recommended that such a condition be imposed.	Accordingly, I do not consider the proposed	development is likely to result in a significant
around the site, for example: for breeding,	mesting, roraging, resting, over-wintering, or																																			

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effect on the environment in terms of protected, important or sensitive flora and/ or fauna species.	As noted in the applicant's EIA Screening Report and within the applicant's Environmental Report, there are no recorded monuments within the application site or no known items of archaeological heritage within the application site. However, given the undisturbed greenfield nature of the site, there is some potential for items of archaeological importance to be affected by the proposed development. Given same, the Environmental Report recommends archaeological monitoring during topsoil stripping. I would note also that the submission from Department of Housing, Local Government and Heritage (DHLGH), at application stage, recommended condition in relation to archaeology. Should the Board be minded to archaeological monitoring be imposed. I would note that as set out in the EIA Screening Report, and within the Environmental Report, the closest archaeological feature lies approximately 100m to the west, an enclosure (DG054-011 - Maylin Enclosure). I am satisfied the proposed development will not have an impact on same.	There are no landscape designations or protected scenic views at the Site. There are no protected structures or architectural conservation area designations at the site.	Accordingly, with mitigation, I am satisfied the proposed development will not have a significant effect on the environment in terms of archaeology and cultural heritage.
	Yes		
	2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?		

that the existing land use is ind with the proposed development onger be available for agricultural use. ich agricultural use is not considered , either a local or national level. evidence that the site could impact on scarce forestry resources, water or urces (see discussion on potential is above) or on fisheries or minerals I do not consider the proposed t will have a significant effect on the in terms of impact on natural	I above, there is a drainage ditch to he site which could be affected by d development, at construction and at tages, with subsequent indirect rface waters in the wider area. In the measures as described in the r management plan, within the CEMP, and within the Environmental satisfied that no significant effect on ult, in terms of water quality. I relation to volumes of surface water e surface water management plan the surface water management plan the surface water that is discharged on site is attenuated and will be t a controlled discharge rate. I relation to flooding, Section 7.4.2 of al Report considers the issue of d it is noted that there are no past recorded on or close to the te. With reference to mapping on note the site does not lie within any and as such the proposed
No I would note agriculture a this will no lo However, su to be scarce There is no e important or coastal resol water impact resources. Accordingly, development environment resources.	Yes As described the north of t the proposed operational s effects on su However, wit surface wate Preliminary C Report, I am same will res Specifically ir discharge, th sets out that from the site discharged a Specifically ir Environment Flooding, and flood events i application si flood events
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?

		fooding. In relation to flooding downstream, I am not of the view that there will be an increased risk of flooding off site, noting that there is a flow control system fitted within the drainage system, and the capacity of the pond is sufficient to cater for a 1 in 100 year storm event. Accordingly, I do not consider the proposed development will have a significant effect on the environment in terms of watercourses and waterbodies.	
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence identified of these risks.	oX
2.7 Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	°z	The Traffic and Transport Report (submitted as Appendix II of the Environmental Report) does not identify any issues with the capacity of the local road network to accommodate the proposed development. There is no evidence on file that the key transport routes surrounding the site (i.e. the N13) is susceptible to congestion, nor is there evidence that the proposed development could impact on the capacity of same in a significant manner.	Q
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	oN	There is no evidence identified in relation to same.	Q
3. Any other factors that should be considered which	ch could lead	to environmental impacts	
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	Ŷ	I am satisfied that there is no evidence that similar projects are proposed or permitted in the local area, such that cumulative effects on the environment could result, nor is there any evidence that other larger scale development are proposed or permitted in the local area, such that cumulative effects on the environment could result.	õz

3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?		The site is located approximately 8.9km from the border with Northern Ireland. However, there is no evidence on file that the proposed development would likely lead to any transboundary effects.	٥
3.3 Are there any other relevant considerations? No		There are no other relevant considerations.	0
C. CONCLUSION			
No real likelihood of significant effects on the X environment.		EIAR Not Required	
Real likelihood of significant effects on the environment.		ElAR Required	
D. MAIN REASONS AND CONSIDERATIONS	S		
Having regard to: -			
a) The nature and scale of the project, which is not of a c set out in Schedule 5, Parts 1 and 2 of the Planning and	class tha I Develo	it would require a mandatory EIA, and falls below any r oment Regulations 2001, as amended,	elevant thresholds as
b) The relevant policies and objectives in the Donegal Coassessment of this plan undertaken in accordance with t	county Do the SEA	evelopment Plan 2024-2030, and the results of the stra Directive (2001/42/EC),	tegic environmental
c) The location of the site outside of any sensitive locatic amended and the absence of any potential impacts on s	on specil such loca	ied in article 109(4)(a) the Planning and Development tions,	Regulations 2001, as
d) The guidance set out in the "Environmental Impact As Development", issued by the Department of the Environr	ssessme ment, He	nt (EIA) Guidance for Consent Authorities regarding St sritage, and Local Government (2003),	ub-threshold
h) The criteria set out in Schedule 7 of the Planning and	l Develop	oment Regulations 2001, as amended,	
i) The Natura Impact Statement, submitted pursuant to the	the Habit	ats Directive (92/43/EEC) and the Birds Directive (200	9/147/EC),
 j) The features and measures proposed by the applicant environment, including those identified in the Preliminary those reports as contained within the appendices of sam 	t envisaç y Constr ne includ	led to avoid or prevent what might otherwise be signific uction Environmental Management Plan, the Environm ing the, Ornithological Report, the Water Management	ant effects on the ent Report including Plan, the Air Quality

is the Archaeological Report, the Odour Management Plan, the Noise Impact Assessment Report, the Traffic and Transport Assessment of the Archaeological Report, ig, the Board concluded that by reason of the nature, scale and location of the proposed development, the development would not be ave significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental sessment Report would not, therefore, be required.	(DPUXDP) Cleueth Date 15/5/25 Date 15/5/25		
Impact Assessme Report and the A In so doing, the B likely to have sigr Impact Assessme	Inspector Approved (DRIA		