



An
Bord
Pleanála

Inspector's Report

318734-23

Development

Construction of a stationary battery energy storage system to include 154 no. 20ft containers and 22 no. medium voltage transformers and connection substation, construction of new access road to connect to permitted road under reg ref 19/6783 and network access off R624, heating, ventilation & air conditioning units and associated site, boundary and development works. The application is accompanied by a Natura Impact Statement

Location

Belvelly Port Facility, Marino Point, Cobh, Co. Cork.

Planning Authority

Cork county Council

Planning Authority Reg. Ref.

235947

Applicant(s)

Ion Renewables

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal	First Party
Appellant(s)	Ion Renewables
Observer(s)	1) Cllr. Marcia D'Alton 2) CIE 3) Eoin Bell
Date of Site Inspection	15 th November 2024
Inspector	Suzanne Kehely

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Appendix 1 – Form 1: EIA Pre-Screening

Appendix 2 – Appropriate Assessment

1.0 Site Location and Description

- 1.1. The site is located in the Marino Point peninsular setting to the north west of Cobh, Great Island in Cork Harbour which hosts multiple port activities, strategic employment uses, marine research, energy generation, tourism, heritage and residential communities in an environment with sensitive ecosystems and natural amenities.
- 1.2. The site is set in a peripheral and segregated part of the c. 48-hectare Marino Point/ Port facility lands comprising mainly industrial type lands at its most northern end and as delineated in the application has a stated area of 1.02 hectares. The site is irregular in shape with a rectangular area extending along the northern shore frontage at a distance of about 5-15m from the shoreline/landholding boundary as outlined in blue. It is within 100m east of the Cork-Cobh railway line.
- 1.3. The site is accessed via the internal road network of the port facility lands which have a supervised and barrier controlled vehicular access off the R624 at the southern end of the lands. The entrance off the R624 bridges over the railway and leads to the internal road network, part of which extends alongside the R624 and bridges back over the Railway at a pinch point in the landholding. Access to the bridge is via a locked gate restricting access to this northeast triangular section of lands which is bound by the railway, shoreline and public road on each of its respective sides. There is also a locked gate access directly onto the R624 from this otherwise segregated area.
- 1.4. The triangular area is relatively flat except where it bridges over the rail and has mature and dense vegetation along the shore and public road. There is extensive hard surfacing and remnants of structures associated with the ammonia plant of the former IFI. There is an expansive set of c. 16m high lattice tower mounted flood lights throughout these grounds. While there is no exact delineation of the subject site on the ground, both the rectangular area and the linear access area incorporate much of this hard surface, disturbed ground and structures and has become overgrown with scrub. Some of the trenches have been infilled. The narrow linear section aligns with an internal road. The photographs illustrate the main landscape character and site features.

- 1.5. The nearest dwelling is on the opposite side of the R624 at a distance of c.100m at its nearest distance from the site boundary. This is one of several dispersed houses along the R624 with the nearest settlement at Belvelly. Passage west to the west of the Channel is the nearest urban settlement.
- 1.6. Marinochem Ltd an industrial facility within the Port facility lands, on the opposite side of the railway, is an Upper Tier Seveso Site and has a 1km consultation distance thereby necessitating consultation with the HSA.
- 1.7. Part of the site to the northeast is located in flood zone B and part of the southern section of the site is located within flood zone A.
- 1.8. To the north of the site lie the waters of Lough Mahon and Belvelly Channel and to the West lies the estuarine channel of the River Lee. The shore frontage is part of the boundary of the Cork Harbour SPA and Great Island Channel SAC. All intertidal estuarine and marine habitat in the Belvelly Channel to the north Marino Point lies within the Great Island Channel SAC and Cork Harbour SPA

2.0 Proposed Development

- 2.1. The proposed development involves the installation of a large-scale battery electrical storage system to act as a power reserve. This is for when electricity generation drops below an amount or when the system requires services such as frequency support to allow renewable generators access to the system and so the reserve capacity can be called on rapidly when required by the National Grid. It is described by the applicant as a system that supports the grid infrastructure and also as one that can provide system services to grid operators.
- 2.2. The development comprises construction of a stationary battery energy storage system (BESS) which includes:
 - 154 no. 2 MW battery installation units
 - 22 no medium voltage transformers and connection to the on-site substation
 - a new internal access route to connect to an internal road previously permitted under planning application reference 19/06783
 - 24 steel containers which have battery system made up of racks of batteries
 - battery management system (BMS) communication panel

- fire suppression system – each container has own individual fire suppressant system to extinguish any potential electrical fires which may occur
- HVAC with air conditioning system power control system to manage charge and discharge

2.3. **Construction works** over 3-4 months require:

- removal of vegetation scrub off the entire site.
- installation of drainage
- construction of access road,
- base for containers: raising ground levels from an existing range of 3.11-3.24m OD to 4.1m flanked with stone gabions Stone gabion baskets would be installed around the perimeter as retaining structures for the fill material and enclosed by 3m high palisade fencing at edge of gabions.
- existing hard surfacing will remain with the stone layer and an impermeable geogrid membrane will be placed on top of the stone layer.
above ground silt trap separator will be installed. any standing water within the site will be pumped through it to ensure any fine settlements are separated prior to discharge.
- installation of containers and
- landscaping at a small portion of the eastern boundary.
- a single light security light will be installed at the entrance gate and spotlights would be installed sporadically on the containers with motion monitoring and lighting. layout is shown on drawing number P2223 stop POC. CO3.
- The development will be subject to a local authority fire safety certificate under the building regulations.

2.4. Documentation includes

- planning statement: This makes a strategic case for the development as part of infrastructural improvements consolidating the development of strategic sites in Cork at Marino Point . The statement is appended with
 - **Letter of consent from the Port of Cork** stating that it does not conflict with any strategic objectives for the site and that it will complement proposals for

Port related industrial development and it will provide security and energy supply and achieve renewable energy targets for the BPF. The storage facility is a complementary industry to the government's climate action plan. It will contribute to the Port of Cork Company achieving its strategic goal of net 0. It is consistent with its master plan and BMDC development plan.

○ **Site suitability statement by AFRY Ltd on grid Access**

- Ecological Impact Assessment
- Flood Risk Assessment
- Construction Environmental Management Plan
- Appropriate Assessment Screening Report
- Nature Impact Statement which concludes that the works pose little risk of significant impact on any of the qualifying interests of either European site. Measures for further impact reduction have been proposed in the NIS, the implementation of which will remove any potential to adversely affect the conservation objectives of Great Island Channel SAC and Cork Harbour SPA. It is therefore objectively concluded in light of the above objective scientific information that when the above mitigation measures are implemented the project individually or in combination with other plans projects will not have an adverse effect on the integrity of any nature 2000 site.
- Noise Impact Assessment
- Engineering Report
- A letter from Belvelly Marino Development Company consenting to the making of the application
- A letter from chartered fire engineers and event safety consultants confirming the layout and design in principle complies with the recommendations outlined in the FM global property laws prevention data sheets This letter includes a summary of space separation calculations and addresses fire suppression, gas detection and safety shut-off, arrangements for warning off site populations as well as repairs and maintenance and testing

3.0 Planning Authority Decision

3.1. Decision

Refusal for the following reasons:

- Having regard to the location of the site within the flood zones A and B in an area identified as being susceptible to flooding, the proposed development which comprises a highly vulnerable use, the failure of the site to pass Part 1 of the development management justification test, as the site has not been zoned, or otherwise designated for the particular use, and the failure to adopt the sequential approach, by not demonstrating there are no alternative locations at lower risk of flooding where the proposed development could be located, it is considered that the proposed development would be contrary to the planning system and flood risk management guidelines and the provisions of the county development plan (WN11-14, WM11-15, WM11-16, WM 11-17) and would therefore be prejudicial to public health and contrary to proper planning and sustainable development of the area
- Marino point is a special policy area where it is a specific policy area under Cord CDP where it is a specific policy objective to facilitate the development of this site for port related to industrial development and where development is confined to activities which are port related or which use existing industrial installations. The planning authority is not satisfied that the proposed use is a specific port-related activity and therefore it is considered that the proposed development by reason of the nature of the use would materially contravene this specific policy objective X-01 of the Cork County Development Plan 2022 would set an undesirable precedent for similar developments in the vicinity and will be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Senior planners report 21st November 23. This reflects the reasons for refusal. In respect of flooding it cites the guidelines and that only water compatible developments that require a waterside location would be considered appropriate in such a flood risk location. In respect of technicalities, it defines port uses as operation of vessels cargo handling storage and transportation of cargo or passengers and supporting infrastructure such as dredging access channels and it is considered that the energy utility infrastructure type use is unrelated to port functions such as these. It is not considered essential to the port as an interconnector could adequately supply energy to the port to supplement the grid if required. Nor is it aligned with climate change, sea levels rising and increased risks of flooding and the growing consensus that vulnerable developments should retreat from areas of risk. national and local policy advocate precautionary and sequential to avoid Highly vulnerable developments in high and moderate probability areas of flooding.
- The applicant has not demonstrated that it has mitigated potential adverse impacts on residential nor is compatible with the requirements of the Habitats and Birds Directive and with the protection of these sites as per internal environment and ecology reports the proposal the proposal does not pass the justification tip test
- The planning report notes international national and local policy for renewable energy and that battery storage is integral to delivery of renewable energy and that given the nature of the proposal it is most effective when located adjacent to existing substation. in this instance the site is located within an existing station in close proximity to the substation however the fundamental issue with contravention pf the site specific zoning (scale nature and that development will serve a wider area beyond Marino and is not specifically port related) and location in the flood zone:
- The proposal does not constitute strategic development and section 182 of the Act does not apply.
- Not considered to constitute visual impact
- There was no report from the fire officer at the time of the publishing however the previous application noted there is specific no specific Irish guidance available on

this relatively new technology and that it should comply with current industry good practice – it will be subject to local authority fire safety certificate application under the building control regulations in this regard matters relating to separation distances to boundaries elite addressed by the applicant at that stage by reference to the planning system and flood risk management guidelines

- No justification test was carried out as part of the plan making process. Refers to table 22 of the development plan, SFRA and the approach to specific land use zones within flood zone AB and with reference to Marino Point it notes that the sequential approach to be applied and development to be avoided and flood zone A&B Policy objective WM11-16 is cited in respect. Justification test has not been applied where there is high probability of flooding and need to avoid highly and less vulnerable development as described in Section 3 of The Planning System Flood Risk Management Guidelines. As this case comprises a highly vulnerable use in zones A&B and the applicant has not demonstrated that there are no reasonable alternative locations within the overall site and without having considered avoidance which is contrary to the and having regard to the precautionary approach in light of recent storm flood events as well as future climate adaption adaptation requirements to retreat development from low lying coastal zones and flood zones, this class of development cannot be supported and refusal is recommended.

3.2.2. Other Technical Reports

- **Environment report** (primary) 16th of November 2023 recommends deferral of a decision subject to further information in respective **cumulative noise impact** of the proposed development on noise levels in the vicinity of the site boundary and nearby noise sensitive locations during the operational phase. All calculations should be included and clearly shown along with any assumptions made. Details of the developments and noise activities that informed the overall cumulative assessment should also form part of the submission and clarification. In addition, it should be clarified why it appears a specific penalty is applied during daytime and evening time periods but does not appear to be applied during night time periods. Refer to section 4.3 point 2 off the noise impact assessment report.

- **Ecology report** (primary) 20th November 2023. There is potential for pollutants to enter the marine environment during the construction phase and negatively impact on water quality. There is potential for receiving marine **waters to be altered as a result of the ingress of pollutants such as hydrocarbons chemicals or sediments during the construction phase** which could indirectly affect the distribution and abundance of the benthic community which in turn could affect the distribution of abundance of prey species of conservation interest of the SP A and consequently have a negative effect on the distribution of foraging birds. The primary concern with this application from an ecological perspective is whether the development as proposed proposes any risk of impact nearby sites designated for nature conservation and/ or habitats and species considered key ecological receptors. Potential for impact on these sites areas species could arise if the development as proposed requires construction within or near these sites or could or would result in loss of habitat disturbance displacement of species and or discharges of potentially contaminated surface water to nearby waters.

There is **insufficient information** on file enable planning authority to carry out an assessment. This relates to details of where **fire suppressant water** is to be sourced and what implications on the source environment such as drawdown of water level. – need to provide an assessment of the potential implications arising on adjoining habitats and associated communities from discharge of contaminated fires and details as to how fire water would be stored in the event of an incident. also how would contaminated stone underlay be treated or removed from the site post emergency event. other information that may be required on foot other further information requests includes a detailed method statement as to how proposed surface water outfall headwall should be constructed and what measures are to be put in place to prevent the release of contaminants during such works. It is the ecology office's opinion that the location of the **proposed outfall is in direct conflict with the recorded high tide to bird roost site** the loss of which would be unacceptable to this office and be contrary to the conservation objectives. **Need a revised outfall location which will not directly impact a known high tide roost** . Need to clarify the extent of scrub **habitat proposed for retention** along the southern boundary of the works

area adjacent to the title lagoon - minimum 10 metre buffer zone **scrub habitat should be retained**. **Additional screening** hoarding would be preferable in order to **avoid visual stimuli of wintering birds** in the adjoining wetland systems. **Bee orchids** are charismatic species and have been previously recorded on site therefore the applicant is requested to submit mitigation proposals to provide for the continued occurrence of this species.

Objective BE15-6 of the county department plan provides for the protection of the council to biodiversity in the development of management process that supports the principle of biodiversity net gain. Therefore, the applicant is requested to submit biodiversity / landscape plan for the site which incorporates native species only. The plan should be prepared with input from an ecologist and neutralizing native species what happened regard to the old island pollinator plan.

- **Area Engineers report** 17th October 2023 considers the area as rural with a small concentration dwelling houses in the surrounding area. It is noted that the existing site is connected to the public mains and there are no sewage mains in the area. No objection subject to conditions

3.3. Prescribed Bodies

- 3.3.1. **Health and Safety Authority (HSA)** 13th of November 2023: Based on information to the authority it does not advise against the granting of permission in the context of the major accident hazards
- 3.3.2. **Iarnród Eireann - Infrastructure** 20th of October 2023 makes the following observation in a letter of objections. It refers to previous submission outlining that electrical discharge from the proposed development may have a detrimental effect on the railway telecommunications and signaling equipment in the locality. It considers that this proposed development may pose a **possible risk to the operation of a vital safety critical railway signaling and telecoms equipment from EMI** (electric magnetic interference) but that risk cannot be quantified without having more detailed proposed installation such as quantifying the level of EMI that would be experienced in the blind side cables and on the track

This letter is resubmitted to the board in its observation on the 17th of January 2024. It is stated that Iarnrod Eireann cannot substantiate the level of risk that would be

exposed to its signaling system and the safe operation of trains because the developer has failed to address the concerns in the submission appended in terms of quantifying the level of EMI that would be experienced in line side cables and on track.

3.3.3. **Irish Water/Uisce Eireann:** No objection subject to standard conditions

3.4. **Third Party Observations**

- 3.4.1. Cllr. Marcia Dalton objects on the basis that nowhere in the application is there a commitment to providing **shoreside electricity at the Belvelly Port Facility**. Concern based on impact on the special policy area and that it is **piecemeal** and that collectively it will have **significant potential to impact on Natura 2000 sites**, water quality within Cork Harbour and adjacent **residential settlements** notably including Passage West
- 3.4.2. Eoin Bell objects on grounds of concerns relating to toxic hazard, noise roads, roads, flooding ecology/NIS and procedural

4.0 **Planning History**

4.1. **Related to the site**

PA ref. 22/6165 refers to refusal of permission for a smaller BESS

PA ref. 19/6783 /ABP 307938-20 refers to grant of permission for demolition and site infrastructure improvements, utility upgrade works, and associated site works on the Belvelly Port Facility lands. The utility works are described in the inspectors report as comprising: i. Provision of a surface water drainage system which would include treatment and disposal via outfalls to Cork Harbour; ii. Provision of a foul effluent drainage system, on-site treatment via a wastewater treatment plant and discharge along the path of an existing outfall into Cork Harbour; iii. Provision of fire water infrastructure along the new internal roadways and on the jetty; iv. Provision of site services, including potable water supply, new electrical infrastructure including a 10kV on-site substation and ducting for extra-low voltage and low voltage connection points; and v. Diversion of natural gas, methanol and mains water pipelines.

ABP ref. 312981 refers to refusal of permission in an adjacent site within the same landholding for construction of a new agricultural fertilizer facility and additional port operation use of the jetty to facilitate cargo vessels on grounds of traffic and inadequate road infrastructure

4.2. **Other nearby/relevant PA decisions**

PA ref. 22/6085 refers to a grant of permission for construction of a stationary battery energy storage facility which includes 5 no 20 foot containers and 1 medium voltage transformer and all associated site development works

5.0 **Policy Context**

5.1. **National policy**

- 5.1.1. **Electricity Storage Policy Framework for Ireland 2024 sets** out the existing International, European Union and Irish regulation and standards which govern BESS and other electricity storage systems in Ireland, as well as the many layered institutional protection, prevention and mitigation processes in place
- 5.1.2. This policy is the first specific Government policy framework for electricity storage, it is important to note here that this policy is developed in regard to various European Union initiative, Directives and Regulations as well the Irish Government commitments, actions and objectives in the electricity storage area. Included below is a summary of Irish Government publications where electricity storage systems are referenced
- 5.1.3. **The Programme for Government: Our Shared Future (2020)** focuses in decarbonisation with a specific commitment to incentivise electricity storage and interconnection
- 5.1.4. **The Climate Action Plan 2024** Within CAP 24 is the commitment to adopt and Electricity Storage Policy Framework (Action: EL/24/16). Throughout CAP 24 electricity storage is recognised as a key technology under several aspects of the renewable transition. Aside from Action EL/24.16 this policy relates to a number of other actions set out in CAP24, these include: - EL/24/20: Implementation of CRU

Energy Demand Strategy. - EL/24/23 Incentivise and enable large energy users to precipitate on flexible demand initiatives designed to enable low/zero carbon demand growth. - EL/24/24 Create a route to market for medium and long duration storage facilities which can provide flexible demand. - EL/24/28 Enable distributed flexible customers to participate in wholesale and system services markets.

- 5.1.5. **The White Paper: Ireland Transition to a Low Carbon Energy Future 2015-2030** recognises the role of grid electricity storage can play in mitigating the challenges associated with grid-connection, its contribution to better management of the overall electricity system and its part in facilitation the deployment of renewable energy technologies. commits to examining the case for designating large scale electricity storage projects as strategic energy infrastructure.
- 5.1.6. **The Electricity Regulation Act 1999**, section 14 covers electricity generation and supply licenses stating. The commission may grant or refuse to grant to any person who is an electricity undertaking or who intends to carry out a function of an electricity undertaking a licence to carry out the function of energy storage. This governed by the provision of section 9(5) which states inter alia that
- Without prejudice to subject sections 3 and 4 it shall be the duty of the Commission:
- (a) to take account of the protection of the environment;
- (b) to encourage the efficient use and production of electricity
- 5.1.7. **Climate action and low carbon development amendment act 2021** commits Ireland to a legally binding target of a climate neutral economy no later than 2050 up to 51% emission reduction by 2030.
- 5.1.8. **The national energy and climate plan 2021 to 2030** is a consolidated plan which brings energy and climate planning together into a single process. Energy security is a key objective outlined in this additionally specific mentions of electricity storage in the NCP can be seen in the context of reduced energy costs increased production of renewable energy and national objectives for increased flexibility and demand response systems
- 5.1.9. **The national energy security framework** reflects government response to the challenges posed to energy security and affordability in the context of the war in

Ukraine. response 27 is explicitly in relation to accelerating investment in the grid and development of storage technologies

- 5.1.10. **other documents** include policy statement on security of electricity supply 2021 energy security in Ireland to 2030 Ireland's long-term strategy and greenhouse gas emission reduction 2023 which builds on cap 23 national hydrogen strategy 2023 the renewable electricity support system Among other documents referred to in electricity storage policy framework document.

5.2. **Other Guidance - Manual of Consenting Procedures – Battery Storage SEAI, 2024**

- 5.2.1. Battery storage installations can also be run separately to a specific renewable energy project, instead taking advantage of the same principle of buying and storing electricity when supply exceeds demand (low prices) and discharging and selling when demand exceeds supply (higher prices). This is not common, however, remains an option for potential investment. The siting of a battery storage project typically is pre-determined and will accompany a renewable project and will generally be installed on the same site. Where a battery storage project is being considered independent of a specific renewable energy project, the following considerations should be taken into account when determining a suitable location: • Site area; • Available land and land ownership status; • Ground conditions; • Existing and future grid infrastructure; • Road access; and • Flood risk

5.3. **Cork County Development Plan 2022-2028.**

- 5.3.1. Section 2.5.47 Marino Point, a largely brownfield industrial area located approximately 5km north of Cobh adjacent to the Cork-Cobh rail line, forms part of the employment land supply within Metropolitan Cork and for Great Island. The area comprises approximately 41 ha, of which c.3ha is occupied by a currently functioning hazardous industrious installation (Marino Chem (Dynea Ireland) Ltd). The remainder of the site is primarily degraded and vacant since the closure of the IFI plant. There is a deep water wharf at the site and it is served by high capacity water, gas and electricity supplies. Marino Point was identified as an 'Other Location' in the 2017 Local Area Plan and was subject to a Special Policy Area zoning objective to

facilitate the development of the area for **port-related industrial development**. In this plan it is identified as a **Specialist Employment Centre** and is also subject to a **Special Policy Area zoning objective**. Development and future activity at this location will need to be carefully planned and controlled given its **sensitive location** proximate to Cork Harbour Special Protection Area and Great Island Channel SAC

5.3.2. **Objective X-01 special policy area**

To facilitate the development of this site for port related industrial development. The following considerations will apply to any proposals for development:

- Development will be confined to the **existing reclaimed area** and to activities which are **port-related or which use the existing industrial installations**. Any new berthing /unloading facilities would be limited.
- A detailed **Traffic** Impact Assessment is required prior to any development to assess the impact on the existing **road network**.
- Improved **road access** between N25 and Cobh subject to full ecological assessment.
- Existing **recorded monuments** on site shall be protected.
- In permitting development, regard shall be had to mitigating potential **adverse impacts**, particularly for the adjacent **residential** settlement of Passage West.
- Marino Point is located immediately adjacent to the Great Island Channel SAC and Cork Harbour SPA and it contains Annex 1 habitats of large shallow inlets and bays. Development in this location will only be permitted where it is shown that it is compatible with the requirements of the **Habitats and Birds Directive** and with the protection of these sites.

5.3.3. **Energy and Telecommunications** Section 13 sets out policies and objectives.. Section 13.15 acknowledges the importance of Battery Energy Storage and objectives in section 13.16 in relation to improving electricity supply specifically includes storage provision.

- **CDP Objective ET 13-21:** Electricity Network Support and facilitate the sustainable development, upgrade and expansion of the electricity transmission grid, storage, and distribution network infrastructure. b) Support the sustainable development of the grid including strategic energy corridors and distribution networks in the region to international standards. c) Facilitate where practical and feasible, infrastructure connections to wind farms, solar farms, and other renewable energy sources subject to normal proper planning considerations. d) Proposals for development which would be likely to have a significant effect on nature conservation-sites and/or habitats or species of high conservation value will only be approved if it can be ascertained, by means of an Appropriate Assessment or other ecological assessment, that the integrity of these sites will not be adversely affected

5.3.4. **Other relevant objectives:**

Section 12.20 of the CDP deals exclusively with the Port of Cork. development of port-related facilities at Marino Point is planned and supports the redevelopment of rail-based port freight transport infrastructure.

Port of Cork and Other Ports: Objective TM 12.14: is key to the development of the Port of Cork, and it states commitments to:

- Ensure that the strategic port facilities at Ringaskiddy, Whitegate and Marino Point have appropriate road transport capacity to facilitate their sustainable development in future years.
- Ensure delivery of the upgrading and realignment of the N28 Cork to Ringaskiddy Road and the upgrading of the R624 Regional Road linking N25 to Marino Point and Cobh and designation to National Road Status to provide appropriate road transport capacity to facilitate sustainable development of port facilities at Ringaskiddy, Whitegate and Marino Point
- Support the landside capacity of Port of Cork subject to consideration of environmental concerns including water quality, flood risks, human health, natural and built heritage.

- Support the relocation of port activities and other industry away from the upper harbour on the eastern approaches to the city .

Section 12.20 also refers to Marino Point in the context of Port of Cork the second most significant port in the state. 'Disused facilities at Marino Point, a Specialist Employment Centre, has potential to handle bulk cargos transported to or from the port by rail. Handling non-rail cargos at this location will require the upgrading of the R624 linking the site to the N25.

Freight: Objective TM 12.13: commits to: **Protect the potential for rail-freight facilities to the former IFI plant at Marino Point** and North Esk in Glounthaune.

Port of Cork and other ports. TM12-15:

- Ensure that the strategic port facilities at Ringaskiddy, Whitegate and Marino Point have appropriate road transport capacity to facilitate their sustainable development in future years.
- Ensure delivery of the upgrading and realignment of the N28 Cork to Ringaskiddy Road and the upgrading of the R624 Regional Road linking N25 to Marino Point and Cobh and designation to National Road Status to provide appropriate road transport capacity to facilitate sustainable development of port facilities at Ringaskiddy, Whitegate and Marino Point. (see also TM 12-13 e) & TM 12-13 footnote)
- Support the landside capacity of Port of Cork subject to consideration of environmental concerns including water quality, flood risks, human health, natural and built heritage.
- Support the relocation of port activities and other industry away from the upper harbour on the eastern approaches to the city.
- Support Ringaskiddy as the preferred location for the relocation of the majority of port related activities having regard to the need for a significant improvement to the road network. Also recognising the key role that Marino Point can play in providing an alternative relocation option for some of the port related uses that could best be served by rail transport taking account of residential amenity, tourism, recreation and renewable energy. The Council is

committed to engage with the Port of Cork and other relevant stakeholders in achieving this objective.

f) Future expansion or intensification of Port activities will have regard to environmental, nature conservation and broader heritage considerations at design, construction and implementation stages.

5.3.5. **Flooding Chapter 11 CDP**

- **WM 11-14:** Strategic Flood Risk Management
 - a) Support the implementation of
 - the EU Flood Risk Directive (2001/60/EC) on the assessment and management of flood risks,
 - the Flood Risk Regulations (SI No 122 of 2010),
 - the Guidelines on ‘The Planning System and Flood Risk Management’ (2009) and
 - the recommendations of the South Western CFRAM study.
 - b) Application of the flood policies of this Plan shall be fully informed by the recommendations contained in the updated Strategic Flood Risk Assessment (June 2022) accompanying the Plan, including the conclusions of Justification Tests contained therein
- **WM 11-15:** Flood Risk Assessments To require flood risk assessments to be undertaken for all new developments within the County in accordance with The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009) and the requirements of DECLG Circular P12/2014 and the EU Floods Directive. –
 - For sites within Flood Zone A or B, a site-specific Flood Risk Assessment will be required.
 - For sites within Flood Zone C, an examination of all potential sources of flooding, and consideration of climate change (flood risk screening assessment), will be required. In limited circumstances where the ‘Flood Risk Screening assessment’ identifies potential sources of flood risk, a site specific flood risk assessment may also be required.

- All proposed development must consider the impact of surface water flood risks on drainage design through a Drainage Impact Assessment. The drainage design should ensure no increase in flood risk to the site, or the downstream catchment
- **WM 11-16: Flood Risks** – Overall Approach Take the following approach in order to reduce the risk of new development being affected by possible future flooding:
 - Avoid development in areas at risk of flooding; and
 - Apply the sequential approach to flood risk management based on avoidance, substitution, justification and mitigation of risk.
 - Where development in floodplains cannot be avoided, applications for development must meet the definition of Minor Development or have passed the Justification Test for Development Plans in the updated SFRA and can pass the Justification Test for Development Management to the satisfaction of the planning authority.
 - Consider the impacts of climate change on the development.

In areas where the Justification Test for Development Plans has not been applied, or has been failed, the sequential approach should be applied as follows:

- In areas where there is a high probability of flooding - 'Flood Zone A' - avoid highly and less vulnerable development as described in Section 3 of 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' issued in November 2009 by DoEHLG.
- In areas where there is a moderate probability of flooding - 'Flood Zone B' - avoid 'highly vulnerable development' described in section 3 of 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' issued in November 2009 by DoEHLG.
- In areas where there is low probability of flooding – 'Flood Zone C' all uses may be considered subject to a full consideration of all flood risks.
- **WM 11-17: Development in Flood Risk Areas** – this uses criteria in Guidelines which are used in assessment section of this report.

5.4. Regional Policy

5.4.1. Regional and Spatial and Economic Strategy for the Southern Region 2020:

RPO 87 commits the strategy to Planning for Climate Resilient Ireland and transition to low carbon economy . The Strategy incorporates Cork Metropolitan Area Strategic Plan in its role in supporting the role of the Port of Cork in sustainable delivery for infrastructure. (e.g. objective 13 which includes Marino Point)

5.5. Natural Heritage Designations

The relevant sites are Cork Harbour SPA and Great Island Channel SAC. These are assessed under Appropriate Assessment.

5.6. EIA Screening

The proposal is not of a type or class of development listed in either Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 as amended and the preparation of an EIAR is not required in this instance.

The construction works associated with the access road does not I consider qualify the development as requiring an EIAR as the road is in existence and works amount to upgrading

6.0 The Appeal

6.1. Grounds of Appeal

- Previous grounds of refusal had been addressed.
- It is submitted that the proposal doesn't contravene the CDP and accordingly nullifies the second reason and in doing so nullifies the first reason as the justification criteria can be met.
- The main point in the appeal is that it is strongly disputed that the development is not port related:

- It is pointed out the CDP does not define port related use and its definition is open to interpretation. it is argued that there is no zoning matrix that would normally guide permissible and restricted uses and so underlines the scope for interpretation.
- The appellant explains how the proposal relates to port use and that the matter is not sufficiently engaged with in consideration of the nature of the use proposed notwithstanding its support at sectoral policy level.
- The second main point in this regard explains how the development avails of existing utilities and infrastructure and this complies with the CDP criteria.
- At a higher level the benefits of proposal in the context the strategic aim for renewable energy use are set out in support of the scheme.
- The third-party concerns are based on misinformation and misunderstanding and for the most part can be addressed as has been done in the appeal.
- Comprehensive noise and ecological assessments demonstrate the proposal would not have an undue negative impact on visual or residential amenity or ecological or environmental character of the area. The planning authority appears substantially satisfied and outstanding matters are addressed in the appeal
- The applicant cites the CDP regarding special employment centre and special policy area designation and the aim to protect facilities so to optimise rail use which having regard to sensitivities of the location
- The CDP (volume 4- p 2.13.5)is also cited in respect of the Southern RSES Cork MASP which describes the areas a strategic location with potential for rail connection, deep water wharf facilities and utilities connections for port/marine
- Table 4.2.21 and policy X-01 inter alia, both state that development on Marino Pint site should be port-related or utilise the existing industrial installations and be of a scale and form appropriate to the site
- Section 13.15.3, 13.15.4 and 13.15.5 refer to BESS and acknowledge that such can be grid connected or standalone and that energy storage give opportunities for self-sufficient rural and island communities.

- The merits of scheme are set out by reference to national regional and local policy regarding employment and sustainable energy and brownfield development. The development will enhance grid stability for the Cork region and will support Eirgrid in meeting peak demands thereby mitigating diesel back-up generators.
- Supports the Port of Cork in its landside capacity and decarbonisation of shipping and in providing an energy resource for industrial activities at Belvelly aligning with TM-12-15
- Supports PoCC masterplan to provide onshore power supply infrastructure in the port – providing shoreside electrical connections in the port aligning with EU Green Deal
- Would result in upgrading of 110kV infrastructure and provide energy security for Marino site and users and for the island. The refurb of the substation will also facilitate development at Marino and upon its completion there will be over 100Mw of power immediately available for the POCC to offer industries at this location.
- Site selection is based on zoning, brownfield nature, technical site suitability assessment and access to unused 110kV lines/underutilised infrastructure the location of which would difficult to replicate in such a strategic location proximate to population and industry.
- Within the Marino Point lands the site is in least demand as it is most removed from the jetty facilities around which sites are earmarked for industry. Its peripheral siting does not interfere with other sites. It does not compromise in intensification as it is least optimum site for large scale development – this is low level development. It is 4% of overall land availability at Belvelly Port facility and would complement the energy requirement of the 96%
- Traffic impact: no additional traffic movement on the public road network will be generated
- Visual impact: In context it will not be out of place with its surroundings
- Flood Risk: A site specific flood risk assessment and provides for mitigation measures to ensure flood risk is reduced to an acceptable level. These measures

include a 300m freeboard by raising ground level and wave protection embankment or that development be set back from water edge to mitigate against overtopping. While a Highly Vulnerable development class, a justification test demonstrates that the development is compliant with the FRM Guidelines and the CDP objectives.

- The flood risk assessment is based on 1 in 100 events, yet the proposal is operational timeframe is for 20 years.
- Ecology: An appended report by consulting engineers addresses concerns raised. Pages 1-5 specifically addresses the ecology report of CCC such as in relation to fire water, surface water outfall construction method, use of noise barrier/screen and overall limited disturbance of bird species. It is clarified that the bee orchid management and biodiversity will be in accordance with requirements of the extant permission for site works under ABP 3078938.
- The appropriate assessment report concludes with mitigation the proposed development will not have an adverse effect on Natura 200 sites.
- A CEMP was submitted with application and decommission stage has been provided for so as not to lead to long-term degradation.
- The Noise assessment concludes that at operational stage there will be low level noise emissions and levels will not exceed commonly adopted noise limit criteria. Clarification is also appended on matters raised in the PA assessment.
- Built Heritage/Archaeology: concerns in this regard are misleading and there is no such features of interest within the site.
- The nearest dwelling is 125m away and not 60m and will not be encroached by way of overshadowing or impact on amenities
- Fire and toxic hazard concerns are unfounded by reference to statement by ION Renewable.
- Irish Rail: There will be no impact on the railway operation. The cable between the BESS and the substation is on the western side of the road and will be in underground duct – at no point does it cross the rail line. The substation already has two live lines that cross the rail line without issue for 20 years. Further

specification and design details on the system are appended for Irish Rial to satisfy possible ambiguity.

6.2. Planning Authority Response

- 6.2.1. In a letter received on 24th January 2024 the planning authority states that it has no further comment on the basis that all relevant issues have already been addressed in the technical reports as forwarded to the Board.

6.3. Observations

- 6.3.1. CIE 17/1/2024 The letter from Iarnród Éireann to the PA is resubmitted. It states that Iarnród Éireann cannot substantiate the level of risk that would be exposed to its signalling system and the safe operation of trains because the developer has failed to address the concerns in the submission appended in terms of quantifying the level of EMI that would be experienced in line side cables and on track.

- 6.3.2. Cllr. Marcia D'Alton 17/1/24

- It is a piecemeal development and together with other proposal raises concerns about cumulative impact on residential settlements and adherence to development plan policies regarding flood and zoning and protection of sensitive habitats.
- Concurs with reasons for refusal.
- Inadequate response by applicant regarding development need for compatibility with the requirements of the Habitats and Birds Directive as endorsed by the ecology and environmental reports of CCC.
- Inadequate details regarding mitigating potential adverse impacts on residential of Passage West.
- The noise data is queried as the date is different to that in a Fermoy case with predicted sound outside the containers being different. The surface roughness coefficient is different. No cumulative impact in the subject case as compared to the Fermoy case. Night -time noise for residents in Passage west is of concern particularly in a scenario of still nights and all-night generators for berthed ships at Marino Point.

- Construction and operation of jetty – cumulative impact is of concern for residents

6.3.3. Eoin Bell raises the following concerns

- Health safety due to battery cell chemistry and reaction with water in the context of both aquatic environment and proximity to residential development.
- Noise Impact. The methodology is questioned and impact on Local residents of concerns. The amplification of noise over water in the Harbour setting is not considered to be factored in which is of concern for downwind residents. Need noise muffling base but no mention of these mitigation measures.
- Road capacity: The alignment of the R624 is not adequate to accommodate the 154 containers proposed for the site. Presently passing trucks are restricted.
- Project splitting: The project relies on other development. It should be assessed on own merits.
- Flora and Fauna: The AA screening report is misleading and it is pointed out that the SAC surrounds three sides of the development site. Concern about all flora to be evacuated with no mitigating measures listed for protection of mammals and flora.

6.4. Further Responses

None

7.0 Assessment

7.1. General

- 7.1.1. This appeal relates to a refusal of permission for a large battery energy storage facility in industrial lands on the basis of material contravention of the zoning objective and flood risk and consequent lack of justification on the basis of being contrary to zoning. This is based essentially on not being a port related activity and not meeting with the criteria of the County Development Plan (CDP) Special Policy Area Objective X-01. Other issues raised in the observations and first party appeal

points which also address concerns raised as part the planning authority appraisal relate to ecology, visual, noise and health and safety. Having reviewed the submissions and inspected the site I consider that the key issues in need of assessment fall under the following headings:

- Principle of use
- Piecemeal development
- Flood risk
- Visual amenity
- Noise
- Traffic Safety
- Health and Safety - Fire
- Residential Amenity
- Ecology

7.2. Principle of use in the context of the development plan objective for the site.

- 7.2.1. The planning authority considers the nature of the proposed development to constitute a material contravention of the development plan and is the basis for the second reason for refusal of permission. The appellant disputes this and there is a difference of opinion on the interpretation of the development plan objective for the site. The planning authority essentially holds the view that as a utility the proposal will serve a wider area than Marino Point and it is not considered port related for the purposes of objective X-01. Port related uses are considered to be tied directly to the vessel or cargo activities and supporting infrastructure for the access waters and navigation and it is considered by the planning authority that an energy/utilities infrastructure development of the scale proposed is not within this umbrella of uses. The appellant disputes that the development is not port related
- 7.2.2. The case is made that there are many merits to the proposal and it can be considered a key element of port related infrastructure which is supported by spatial and sectoral policies in relation to energy security, port development and moreover, climate change. The executive planner's report acknowledges that national policy supports such development but nevertheless judged it to be contrary to the site-

specific objective X-01 in the development plan. The land use objective is 'specialist employment centre' and the development plan has extensive criteria in relation to nature of operations. The objective in SPO x-01 is to facilitate the development of this site for port related industrial development and interpretation of 'port related' is at the core of the differences in terms of contravention of the plan.

7.2.3. From my reading of the development plan, while there is some basis for not fully complying with elements of the site-specific objective, I am of the view that permission for the development does not amount to material contravention of the development plan. The basis for this is set out below having regard to the submissions, the nature of the site and the characteristics of the proposed development. Notwithstanding, I consider the development in the manner proposed constitutes piecemeal development contrary to the overall proper planning and sustainable development of the area and this issue is addressed under the next heading..

7.2.4. The matters for consideration are listed in section 5.3.2 of this report in terms of meeting the criteria for SPO X-01. In my judgement, the following considerations are reasonable evidence of how the proposal may substantially comply:

- It is industrial in scale - As a utility it is beyond the likely energy needs of the site. This is clear from the previous assessment in case ABP 307398, which included a 10MW substation and I note in the inspector's report that the 110kv connection is stated to be excessive for the needs of the site. Accordingly, while it is not directly related to the handling of cargo or passengers nor is it an ancillary utility, it is I consider an industrial type energy use in vacant industrial lands and also supports industrial uses in the port facility land area.
- At a strategic level in terms of energy policy the proposal is supported in that it, in part, provides for renewable energy storage so as to manage the peaks and troughs of demand to ensure sufficient supply and in this indirectly supports industrial development of the site.
- It is port related in so far as it has the capacity to provide an energy bank for both the Belvelly Port Facility lands and shipping activities subject to relevant permissions. The proposal for example has the capacity to support an Onshore Power Supply (OPS) for the PoCC in accordance with its Masterplan aim to meet

decarbonisation targets. PoCC states that utility infrastructure for shipping is needed to facilitate the shift to carbon zero targets. More specifically it could (subject to permission) provide for shore side electrical connections to berthed ships in the port although the objective is subject to limited additional berthing.

- **Logistical efficiencies:** It is proposed to develop substantially within the developed footprint and builds upon the existing hard surfaced area. In the wider site context, the proposal is stated to rely on the infrastructure already installed such as the two 110kV lines and the sub-station although in need of re-energisation and refurbishment in conjunction with proposal. (The main site is fed independently by 10MW connection). The applicant emphasises the efficiencies and is not aware of any other site in the country that has this type of infrastructure being completely unused and underutilised and submits that it would be extremely difficult to replicate this type and scale of infrastructure so close to a population and industrial base. The substation refurbishment is intended to be carried out in conjunction with the proposed development.
- **No significant traffic:** The development of the lands in this manner whereby inputs and outputs are via cable allows for operations within the capacity of the road infrastructure serving the site. While the extant permission for the wider landholding provides for upgrading of utilities and services within the overall site, the intensification of use was not within the scope of that permission. The recent refusal of permission for the fertiliser plant was based on road traffic generation and inadequate road infrastructure - the significant improvement of such predicated in part the realisation of objective X-01. In this case, as little or no vehicular traffic will be generated, it allows for the development of lands without unduly compromising the capacity of the road infrastructure. Furthermore, the time restricted duration of permission and provision for restoration allows for a review of the circumstances prevailing and thereby does not necessarily compromise the long-term aims of objective X-01.
- **Limited works:** The proposed building, works and human activity are very limited in scale and duration (a 3-4 month construction phase) which potentially limits habitat and species disturbance in this sensitive context. There are no significant emissions or waste in the operational phase. In the words of the CDP in section

13.15, 'there are no emissions, solid wastes or effluent produced from these battery storage systems.'

- The proposed works are on relatively recent reclaimed lands and do not impact on any elements of built heritage of conservation interest.
- Subordinate land use: It relates to about 4% of the entire Belvelly Port facility lands and is sited at a peripheral location from the jetty and cannot by itself be reasonably considered to compromise the development of lands for cargo and freight related uses which potentially can opportunise on the rail and shipping facilities and in this regard I note TM 12-13 relating to rail use on the these lands. While it is stated that lands are committed to uses/occupiers this is not specified. The lands remain in a vacant and somewhat derelict state.
- In terms of the location within the Marino Point lands, I consider there are merits to locating such a development in this part of the landholding. It is segregated within the complex as well as having substantial barriers from surrounding lands which is appropriate in terms of safety for a significant energy storage compound. I also consider the categorisation as 'specialist employment centre' rather than a 'strategic enterprise area' such as designated in other areas of the county infers a less populated employment although this is open to correction.

7.2.5. In the context of other policy considerations, the senior planner's explanation of port use is I accept, to a degree, limited in disregarding supporting infrastructure for the decarbonisation of shipping. The proposed scheme has the potential to support key port changes revolving around energy provision and as required by maritime and shipping related directives as cited by the applicant, for example, the Alternative Fuels Infrastructure Directive (AFID 2014/94/EU) which requires on shore power supply. I say this having regard to the CDP energy policy and objectives that acknowledge and support renewable energy storage such as ET 13-21 which includes the objective to 'Support and facilitate the sustainable development, upgrade and expansion of the electricity transmission grid, storage, and distribution network infrastructure.' I also consider it a reasonable comment by the applicant that port related uses evolve with technology. Sections 13.15.3 and 13.15.4 of the CDP recognise the variableness of renewable energy sources and need for demand and that BESS can be integrated with renewable energy generation systems in either

grid connected or standalone applications and ultimately facilitating a better match between supply and demand. The CDP states that the council will ‘continue to support energy storage technologies as we aim to achieve our renewable energy targets and become a carbon neutral economy’.

- 7.2.6. Having regard to the forgoing I am of the view that permission would not materially contravene the development plan and accordingly if the Board is of a mind to grant permission, I do not therefore consider it necessary to rely on section 37 (2) (b). If it were decided to rely on such provisions, I would consider there to be basis to having regard to the national policy in regard to providing for renewable energy infrastructure and as mandated in the most recent Climate Action Plan. Such an approach is supported in the recent High Court judgment in respect of Coolglass Wind Farm wherein the provision of renewable energy infrastructure in accordance with aims of the Climate Action Plan took precedence over the county development plan in the context of Section 15 of the Climate Action and Low Carbon Development Act which requires that state bodies must carry out their duties consistent with the need for climate action. In this regard I note Action number EL/24/16 to Adopt Electricity Storage Policy Framework as a measure to achieve the 2025 KPI of long-term storage (4 hour plus) as part of accelerated flexibility. Other measures are listed in Section 5 of this report. I further note that the recently adopted Electrical Storage Policy Framework refers to the consideration of BESS as SIDs which underlines the strategic importance.

7.3. Piecemeal approach - principle of development as a standalone element and

- 7.3.1. The nature of the proposal is supported in national policy as set out in Electricity Storage Policy Framework for Ireland (2024) which reflects international policy in that it supports the transition to renewable energy by providing for storage of energy generated by for example weather dependant technology. Such storage can augment the grid capacity where supply exceeds demand. The proposal in this case is for the storage element only and the submitted drawings do not specify the connection to a particular renewable energy source or indeed the route of connection to the substation for distribution to the end users. The supporting documentation explains how the proposed scheme is intended in general terms to connect into the national grid for the two-way energy flow but this is not spatially mapped. Based on

the SEAI and Government of Ireland Publication - Battery Storage Manual of Consenting Procedures, this standalone approach is not precluded from consideration but is acknowledged as being less common as many battery storage installations take place alongside other renewable energy projects and form part of that particular application. Permission would therefore be contingent on a connection to the energy supply in particular which has not been clearly identified. There are what I consider to be significant weaknesses in the manner in which the BESS is proposed as part of a complete operational entity, and I consider it a fair criticism that it is premature pending clarification of such.

- 7.3.2. The proposal does not anchor the renewable energy provision to the shipping sector notwithstanding the case made to justify the proposal based on demand for such in line with that sector and climate action policies. The reliance on the potential for an OPS is speculative, as consent for the BESS does not infer consent by association for material changes in shipping that would otherwise necessitate a separate application and consent process. In this regard I note the restriction on new berthing as part of the SPO X-01. There is also reference to the equivalent energy supply for a population of 34000 which suggests a potential capacity for localised supply but the implementation of this is not developed and it is analogous in only serving to quantify the capacity rather than delivery of localised benefits.
- 7.3.3. Permission I consider would be akin to an outline permission being conditional on other elements being in place to facilitate such operations. While the multiple consent process could be described as a 'chicken and egg' ultimately, I consider the proposal to be piecemeal and premature in that there is no clearly defined logistical integration.
- 7.3.4. While referring to the connection to the substation the proposal does not clearly present this in the submitted plans. It is explained that connection to the national grid is already built and reliable in that 'The proposed site is adjacent to the existing old court 110KV substation which is part of the national electricity transmission system. This substation was previously used for the supply of a number of industries in the area however these loads are no longer connected...' However, this is in need of significant upgrading but excluded from the site delineation in red, although they are within the landholding. The connections are not clearly delineated or spatially presented. The applicant states that the refurbishment and re-energisation of the

substation is to be carried out in conjunction with the proposed development and that the two existing 110kV lines will be used. The refurbishment is estimated at a cost of up to €6m which suggests a significant development. While I accept that there is existing electrical infrastructure in the wider landholding that logically connects to the proposed development, I do not consider it can be assumed that consent for such is fully in place. It is stated (par.7.32 of appeal) that the proposal does not involve the development of this and therefore s.182 of the PDA does not apply. At a basic level I note that the substation and transmission lines are outside the red boundary line and while there may be certain exemptions for development, the determination of such is not within the scope of this application. There is no correspondence from Eirgrid regarding future arrangements nor is there a connection letter yet provision of such accords with normal practice in the consent process. I refer to the SEAI and Government of Ireland Publication - Battery Storage Manual of Consenting Procedures.

- 7.3.5. At a more detailed level while there is reference to cables, the lack of delineation between existing, proposed and permitted works is confusing. For example, par.6.16 of the appellant submission states that 'the cable between the BESS and the substation is on the western side of the road' but that road is not clearly identified. It is further stated that the cable 'will be' underground in a duct and at no point does it cross the railway line which infers a proposed cable but is not delineated. Nor is there an identifiable transformer compound and so it is not clear how the energy will be collected, such as for example within one compound within the site outlined in red and from where, for example, a single cable will be required to then connect into the substation across the railway. This could be addressed by further information.
- 7.3.6. This overall approach is I consider piecemeal in that it is not clear how the development site is to be connected as it is segregated from its energy source and delivery routes. Furthermore, while I note the merits of the siting at the subject location, the absence of details for the immediately surrounding and wider lands within the Belvelly Port Faicty lands is of concern. It is not clear as to the extent that land may be sterilised or what is compatible while at the same time ensuring that future rail services are used and ultimately that the lands at Belvelly Port Facility can be developed in a sustainable manner and in accordance with CDP objectives for integrated land and transport. While not in direct contravention, I do not consider the

Board can be fully satisfied that the proposed development would not undermine the achievement of the objectives TM 12-13 and X-01 and permission in this instance would therefore be contrary to the proper planning and sustainable development of the area.

7.4. Flood risk

- 7.4.1. The site is partly within both flood zones A & B and is susceptible to flooding. As the proposed development comprises a highly vulnerable use, the development is required to pass a Justification Test. The planning authority has taken the position that the proposed development does not comply with the development plan objective and on this basis fails the justification test. It furthermore is of the opinion that the applicant has failed the sequential test in not demonstrating alternative locations.
- 7.4.2. The Planning System Flood Risk Management Guidelines (2009) set out a method for applying the Justification Test. The following criteria for development management purposes are set out in section 5 of these guidelines and these must be satisfied and are assessed as set out below:

Criteria	Assessment
Lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan,	For reasons stated I am satisfied that the proposed use is not precluded from consideration noting its industrial zoning, however this does not address impact of piecemeal development.
<p>FRA demonstrates</p> <ul style="list-style-type: none"> The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk The development proposal includes measures to minimise flood risk to people, property, the economy and the 	<p>The site-specific FRA provides for mitigation including containment</p> <p>The proposal to raise ground and provide a freeboard minimises flood risk. The limited human activity</p>

<p>environment as far as reasonably possible</p> <ul style="list-style-type: none"> • The development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access • The development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscape 	<p>minimises risk to people and property.</p> <p>The design mechanism has factored in managing flood waters, fire risk (non-water based) and disposal of contaminated water.</p> <p>The 20-year lifespan provides an opportunity review the adequacy of mitigation</p> <p>The site location is peripheral to jetty facilities and main entrance and is brownfield while also having potential access to integral infrastructure (110kv power lines nearby). In the absence of a detailed masterplan for the adjacent land /sites and tying-in with future development and in view of the piecemeal approach to development I am not satisfied that this has been sufficiently demonstrated.</p>
<p>Acceptability or otherwise of levels of residual risk with consideration of the type and foreseen use of the development and the local development context</p>	<p>As the site and surrounding lands are owned by the same company, surface and flooding issues could be resolved in a cohesive manner. The fixed lifespan facilitates review.</p>

7.4.3. In light of my assessment on zoning, the measures to prevent and manage fire risk and provisions for conditions to satisfy the justification test there is a basis to accept the flood risk in principle. Furthermore, in respect of flood management I note that the design is informed by 1/100 year event and that the life span is only 20 years for the development. Given the somewhat isolated location, the only lands likely to be affected are those with the same landholding and therefore a coordinated approach to flood management is possible. Protection of the railway could be augmented by way of a condition. Such an approach is provided for in section 5.20 of the flooding guidelines. However, on balance, while I consider the proposed development has the potential to meet the overriding industrial zoning objective, the piecemeal approach and lack of integration with adjacent lands potentially comprises orderly and efficient use of land in a sustainable manner and for this reason I consider the proposed development to fail the Justification Test.

7.5. Visual amenity

7.5.1. The site is on the shoreline in Cork Harbour close to the R624 and is part of the overall landscape character that is classed as very high. It is located in the vicinity of the CDP designated scenic route no S53 but is in an area identified in Table 2.5.1 as:

- having 'settlement, residential and associated harbour uses' features and
- not having a prevalent rural character and
- being without a sense of remoteness.

7.5.2. The site at present features c.15.4 metre high tower mounted lights through the site as outlined in blue and some of these are to be removed within the site while most remain. The proposed containers are low lying at just under 3m in height and when mounted on raised ground together with the 3m high fencing and positioned behind the mature vegetation buffer which is to be retained and enhanced will have limited visual impact as viewed from the public realm such as the shorelines or public road in the vicinity of the site. I do not consider the proposed development to result in any materially adverse visual impact in the context of its immediate surroundings and I note the PA holds a similar view. I do not consider adverse impact on visual amenity to be reasonable grounds for refusal of permission.

7.6. Noise

- 7.6.1. The assessment of impact of noise on residential amenity is submitted to be inadequate on the basis of methodology with a particular concern about tonal nature, amplification of the water body and prevailing wind and impact on sensitive receptors such as residents in Belvelly and Passage West. This concern is compounded by the potential for cumulative impact with existing uses at the port facility and intensification of same consequent on permission. The CCC Environment report sought clarification of cumulative impact and methodology. The applicant explains in the appeal response that the noise level as predicted in the noise impact assessment predicted a noise level of 36dB at the nearest sensitive receptor to the south of the facility on the R624. This I accept is considerably below the daytime noise limit of 55dB, evening limit of 50dB and nighttime limit of 45dB. This I consider allows for weighting to be given while still remaining within acceptable limits. The cumulative impact for the previous proposal for a fertiliser facility to the south west of the site if developed is unlikely to be on any significance to the NSR1 or NSR 2 further north in the direction of Belvelly as the location of these receptors fall outside the noise contour zone as illustrated in the appeal grounds. While this was refused permission, it is indicative of the noise generated by a cargo handling facility on these lands. I consider the level of noise likely to be generated by the proposed development at operational stage to be within acceptable limits. Noise attenuation limits would further safeguard amenities.

7.7. Traffic Safety

- 7.7.1. A third party submission raises concern about the impact of the development on the road network. The R624 is described as inadequate to accommodate the vehicular movements associated with the delivery of the containers. This is due to its alignment and the situation whereby passing trucks have difficulty moving freely and safely as is the experience of the observing party. Photographs support this statement. It is clear from the development plan criteria for development of the subject area and environs that the road improvements are required. However, in this case, given the nature of use, there is no traffic generation of significance. The

matter relates to the delivery stage for the 154 containers and equipment - the site preparation and installation of which is to be spread of 3-4 months. The site also has the option of delivery by sea. Given the relatively short duration I consider this can be dealt with by a Traffic Management Plan as part of the construction management measures which would ordinarily be subject of agreement with the planning authority. In such circumstances, I do not consider traffic hazard to constitute grounds for refusal.

7.8. Fire and Safety

- 7.8.1. A letter from Fire Safety consultants lodged with the application confirms that the BESS units will be subject to formal local authority fire safety certification and so this is a Building Regulations matter. It is clarified that a commencement notice under these provisions will be lodged as part of the process prior to commencement and an assigned certifier will sign off upon completion. As a preliminary step, the fire engineers express that in their opinion the proposal is in accordance with the proposed containerised BESS specifications by Mitsubishi Power's Emerald Storage solutions and in principle complies with the recommendations of FM Global Property Loss Prevention Data for such energy storage system and also for protection against exterior fire exposure.
- 7.8.2. A technical explanation on page 18 of the appeal planning report further explains how there is no danger of fire explosion due to lithium and how containers 'switch-off' and will be removed if temperature levels rise and initiate gas suppression system. There are further measures built in to remove threat of explosion and there is also 24-7 monitoring by the manufacturer and operating standards are based on international best practice. The system is stated to satisfy the underwriters who deal mostly with this technology. It is 750 m away from the SEVESO site and I note the HSA do not advise against permission having regard to spatial land use.
- 7.8.3. The consent process accordingly provides for more detailed review to address safety issues such as fire safety by way of battery design and fire prevention as well as fire mitigation. It is within this envelope that detailed concerns of CIE can be addressed. While the applicant has submitted technical details my understanding of the consent process is that detailed specifications could change with the aim of achieving the

safest option. For the purposes of this planning stage, I consider the applicant has submitted sufficient safety details and I see no reason to refuse permission on fire or safety grounds. In the event of permission a condition requiring flexibility to change the specification in order to improve on safety and use the best available technology should be included.

7.9. Residential Amenity

- 7.9.1. The site is in a relatively remote location as part of an industrial compound in a peninsular setting although within hundreds of metres from housing. To the east housing is low density along the R624. It is rural in nature with the nearest house in the order of 100m from the site – the discrepancies in different distances can be accounted for by the differences in boundary versus building footprint. I am satisfied that the nearest sensitive receptors in the noise survey are sufficient in terms of appraising noise impact which I have concluded to be within acceptable limits. For houses at greater distances this is significantly dissipated as emanating from the site location.
- 7.9.2. As I have already assessed, visual impact is negligible in the surrounding environs. As the construction phase is of such short duration being in the order of up to 4 months and is subject to Construction and Environmental Management Plan I do not consider any significant adverse impacts would arise from these aspects of the development. I do not consider impact on residential amenity is a reason to refuse permission.

7.10. Ecology

- 7.10.1. The Ecological Impact Assessment was carried out by Flynn Furney Environmental Consultants and table 5 of the report lists the predicted significant impact based on survey work findings and nature of the proposed works and development at construction and operational stages. A temporary minor adverse impact on the estuarine receiving environment is considered extremely unlikely. I consider it reasonable to conclude that the impacts will be negligible and temporary having regard to the mitigation measures which includes tree augmentation and significantly

a general improvement by way of introducing a drainage network incorporating hydrocarbon filtering. The AA considers impacts on water quality and marine environment in more detail.

8.0 AA Screening

- 8.1.1. The application is accompanied by an AA Screening report and an NIS. Other supporting documentation such as the Ecological Impact Assessment, Construction and Environmental Management Plan, Noise Impact Assessment and details relating to fire prevention and safety provide relevant background material. Appendix 2 contains my stage 1 screening for Appropriate Assessment and consequent Stage 2 Appropriate Assessment. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of Cork Harbour SPA, site no. 004030 or Great Island Channel SAC, site no. 001058, or any other European site, in view of the sites' Conservation Objectives.'
- 8.1.2. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

9.0 Recommendation

- 9.1. I recommend that permission be refused for the proposed development on the basis of the reasons and considerations set out below

10.0 Reasons and Considerations

1. The subject site forms part of the X-01 special policy area at Marino Point where it is a specific policy objective to facilitate development of this site for port related industrial development while also being subject to Objective TM 12.13: which commits to protecting the potential for rail-freight facilities to the former IFI plant at Marino Point where the proposed development is located. Having regard to the nature of the development and absence of sufficient connection details to the grid network and reliance on upgrading works outside the proposed development site together with the proposed site

configuration in the context of the overall lands and its proximity to the railway line the Board is not satisfied that the overall orderly and sustainable development of the lands would be achieved in accordance with these objectives. It is considered that the proposed development constitutes piecemeal development and the Board is therefore not satisfied that the proposed development would not undermine objective X-01 and TM 12.13 of the Cork county Development Plan 2022-2028. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the site within Food Zones A and B in an area identified as being susceptible to flooding, the proposed development which comprises a highly vulnerable use and the failure of the site to pass the development management justification test on the basis of the piecemeal and fragmented approach to developing the area, the Board is not satisfied that the proposed development can meet with the criteria in the Planning System and Flood Risk Management Guidelines and would therefore be prejudicial to public health.

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.

Suzanne Kehely
Senior Planning Inspector

23 January 2025

Appendix 1 - Form 1

EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference	318734-23		
Proposed Development Summary	Battery Energy Storage Scheme and site works		
Development Address	Marino Point, Cobh, Co. Cork		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	Tick if relevant and proceed to Q2.
		No	X
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	Tick/or leave blank	State the Class here.	Proceed to Q3.
No	Tick or leave blank		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	Tick/or leave blank		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	Tick/or leave blank	Screening determination remains as above (Q1 to Q4)	
Yes	Tick/or leave blank	Screening Determination required	

Inspector: _____ **Date:** _____

Appendix 2 - Appropriate Assessment

Stage 1

Screening for Appropriate Assessment Screening Determination

Step 1: Description of the project

I have considered the Battery Energy Storage Scheme and site works in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site is located adjacent to the shoreline in Cork Harbour in the order of 10m from the nearest European Site. It is a low lying site and partially in a flood risk zone and comprises reclaimed land which has been developed as part of an industrial site for former fertilizer plant. The site hard surfaced and overgrown with scrub.

The proposed development site comprises 1.05 hectares of a c.43 hectare holding of brownfield industrial zoned land and the proposal is for

- Construction of a stationary battery energy storage system (BESS) with over 300MW storage capacity and comprises 154 x 2 MW battery installation units, 22 medium voltage transformers and connection to on-site substation, a new internal access route to connect to a permitted new internal road, 24 containers with battery racks, a battery management system, a fire suppression system (integrated into container design) and air-conditioning system among other site works.
- Site works: to include flood risk prevention measures such as raising the ground to provide freeboard of 300mm and a rock gabion retaining structure on the shore side. A surface water drainage system is proposed to manage run-off. Measures to separate fine settlement prior to discharge.
- Security lighting (at entrance and sporadically on containers) is also proposed.
- Overlay: The existing hard surface will remain and a stone layer with impermeable geogrid membrane is proposed on top of this.
- Fire safety designed to not use water and development is subject to fire safety certification.

- Construction duration is for 3-4 months.

Reports/observations on project

- The ecology officer of CCC raised concerns about:
 - disturbance of a known high tide bird roost
 - outfall location for surface water
 - water supply /draw down for fire and contamination of water and impact on benthic communities and prey
 - loss of scrub/vegetation.
 - Other biodiversity issues regarding bee orchid and need for biodiversity plan.
- Third party concern about loss of scrub habitat/impact on wetland habitat and impact on birds of SCI of SPA.
- No issues raised by prescribed bodies (Only HSA and Irish Water responses).

Step 2: Potential impact mechanisms from the project [consider direct, indirect, temporary/permanent impacts that could occur during construction, operation and, if relevant, decommissioning]

The project is not directly connected with or necessary for the future conservation management of any European Site. However given the proximity and hydrological connection and the drainage and gabion works along the shoreline, there is potential for indirect impacts from habitat deterioration, water pollution and disturbances to species. Significant impacts that could negatively affect qualifying interests, species and habitats that rely on high water quality and relative absence of disturbance cannot therefore not be screened out in the absence of mitigation. Section 4.6 and 4.7 of the AA screening report identifies potential impacts and significance of these. Such relate to water quality, habitat loss and/or alteration, habitat or species fragmentation, and disturbance and /or displacement of species. I also note the council's ecology report.

On the basis of the documentation, I consider potential impact mechanisms can be categorised as follows:

- Mechanism 1: Release of pollutants at construction stage and contamination of surface water (by dust, accidental spill of fuels, oils, chemicals, machinery)

effecting water quality and marine natural environment and habitat degradation

- Mechanism 2: Excavations and site clearance and drainage and gabion construction 10m from the SAC could impact on habitats resulting in habitat loss or alteration impact on foraging and or/roosting for species
- Mechanism 3: Release of pollutants at operational stage during fire
- Mechanism 4: Noise and lighting at construction stage such as from plant and machinery giving rise to Disturbance and/or displacement of species
- Mechanism 5: Noise and lighting at operational stage such as from equipment giving rise to disturbance and/or displacement of species

Step 3: European Sites at risk

The screening for AA was prepared by Mulcahy Walsh and Partners on behalf of the applicant and concluded that the possibility of significant effects could not be ruled out in view of the conservation objectives of four European sites and so the proposed development must proceed to (stage 2) Appropriate Assessment.

In determining the potential for significant effects of the proposed development, a catchment of 15km was considered for European Sites, having regard to the nature scope, scale and location of work. I am satisfied that the zone of influence as described in section 4.5 is reasonable. Accordingly, this list identified as including the following European Sites as part of the Natura 2000 network is complete:

- Cork Harbour SPA 004030
- Great Island Channel SAC (001058)

I have also examined the SI No 391/2021 which includes the Greenshank and Mallard in addition to those listed by the NPWS. The habitat for the SPA included by the NPWS is not specifically included in the statutory Instrument for the SPA. I have included this habitat and have had regard to the conservation objectives supporting document, version 1, 2014.

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
Mechanism 1 and 2 Surface water pollution at construction stage	Potential hydrological and ecological connection between construction works and overground run-off to surrounding waters on Site	Cork Harbour SPA – c. 10m away	All water dependant species via prey and wetland habitat (QI as listed in npws.ie and SI 391/2021)
Mechanism 3: Surface water pollution run -off at operational stage	As above - pathway between fire damage to toxic substances and run-off		As above
Mechanism 4 and 5 Disturbances associated with, site clearance, gabion construction and outfall point	Noise and lighting at construction stage such as from plant and machinery giving rise to Disturbance and/or displacement of species Loss of vegetation reduces screening and potential		All bird species – foraging roosting on or near development site. Human activity identified as threat.

	foraging breeding area		
		Great Island Channel SAC (Site Code 001058) c. 10m away	
Mechanisms 1 and 2: water pollution at construction	Potential hydrological and ecological connection between construction works and site		Habitats (as listed in NPWS website Mudflats and sandflats not covered by seawater at low tide and Atlantic salt meadows- greatest threat to conservation objective comes from road works and sewage
Mechanism 4 and 5 Disturbances associated with, site clearance, gabion construction and outfall point	Disturbance of wetland dependant species -loss off habitat Gabion construction		As above

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

Table 2: Could the project undermine the conservation objectives 'alone'

European Site and qualifying feature	Conservation objective (summary) [provide link/ refer back to AA Screening Report]	Could the conservation objectives be undermined (Y/N)?			
		Effect 1	Effect 2	Effect 3	Effects 4 and 5
Cork Harbour SPA					
All water dependant species (as listed in NPWS website and Statutory Instrument)	To maintain the favourable conservation condition as defined by specific attributes for each species.	Yes	Yes	Yes	Yes
Wetlands and waterbirds [A999]	To maintain the favourable conservation condition of the wetland habitat in Cork Harbour SPA as a resource for the regularly occurring migratory waterbirds that utilise it. This is defined by a range of attributes and targets	Yes	Yes	Yes	Yes
Great Island Channel SAC	Targets and attributes Detailed Conservation Objectives available in NPWS				
Habitats Mudflats and sandflats not covered by seawater at low tide greatest threat to conservation objective comes	Permanent habitat is stable/increasing Conserve following community types in natural condition: mixed sediment to sandy mud with polychaetes and oligochaetes community complex.	Yes	Yes	Yes	Yes

from road works and sewage	Intertidal sandy mud community complex; and Intertidal sand community complex.				
Atlantic salt meadows-		No	No	No	No

Given the location of the site along the shoreline and proximity to the Cork Harbour SPA and the Great Island Channel SAC, the nature of works including gabion type works, site clearance and the hydrological connection between the development site and the SAC and SPA via surface water, the prevention of any construction and operational related emissions would be required. There are also issues of disturbance of bird species (SCI) through noise, visibility and illumination, the management of which would also be required. The QI/SCI and known threats and pressures to the sites are summarised in section 4.6 of the AA Screening report and are as listed on the NPWS website. Threats include industrial or commercial, shipping lanes, dispersed habitation, urbanised areas, human habitation, roads and motorways, fertilization and port areas among other human activities. The applicant has included mitigation measures to apply to prevent adverse effects to these European Sites and therefore it is reasonable to screen the proposal in for further assessment.

In summary, the potential for significant effects cannot be excluded for Cork Harbour SPA and the Great Channel Island SAC and therefore Appropriate Assessment is required on the basis of the effects of the project in the absence of measures intended to avoid or reduce harmful effect of the project 'alone' on these Sites. 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 I conclude that the proposed development would have a likely significant effect 'alone' on the Qualifying Interests of the Cork Harbour SPA and Great Island Chanel SAC from effects associated with the uncontrolled discharge of pollutants in surface waters, site preparation and vegetation removal close to the shoreline and generation of disturbance noise and light . 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' in respect of effects associated with surface water contamination, scrub vegetation removal and disturbances.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusionIn accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

Stage 2

10.2. Appropriate Assessment

10.2.1. The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive • Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity each European site.

10.2.2. Compliance with Article 6(3) of the EU Habitats Directive: The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

10.2.3. **Relevant European sites:** Following on from screening, the following sites are taken forward for AA due to the requirement for mitigation measures to avoid significant effects or that the significance of effects are uncertain and require further assessment.

- Cork Harbour SPA and
- The Great Island Channel SAC

10.2.4. **The Natura Impact Statement:** The NIS, prepared by Malachy Walsh and Partner, is dated May 2023 and provides a detailed description of the proposed

development, the application site and the surrounding area. The receiving environment is described, and the main survey findings are:

- The predominant habitat is Buildings and Artificial Surfaces (BL3). Other habitats identified included recolonizing bare ground, scrub/immature woodland within the site and bounding the site, sea walls Piers and jetties all of local importance and 'estuaries' being of international importance areas (being within an SAC/SPA) to local importance are external but nearby.
- Mammal Otter activity at edge of site within the reed and large sedge swamp. A Trees with limited bat potential were recorded. Evidence of fox and rabbit also on site
- Birds: Two species of roosting bird recorded and 11 roosting bird species recorded on the Mudflats north of the site. 7 roosting species recorded west of the site . Four Annex 1 breeding Bird species were recorded north in the study area while 1 was within the site. Shelduck – but no nests or chicks recorded. three species were recorded as occurring in nationally important numbers during the winter survey. Shelduck, Shoveler and Dunlin. However, no survey area, including the Belvelly port facility site itself, supports a substantial proportion of the Cork Harbour's total populations of a particular species during the high tide counts. Data collected during the winter birds surveys for the previous NIS indicates that the species previously recorded at the site are still present, yielding no significant change to the species composition or habitats utilized.

Section 4.4 provides a detailed description of proposed works Section 5 set out an assessment of effects and identifies where mitigation is required.

The Great Island Channel SAC

Table 5 summarises an assessment of effects on the conservation objective for the SAC habitat by reference to section 4.4.3 surface water management and concludes mitigation is required for avoidance of pollutants entering the : mud flats and sand flats not covered by sea water at low tide Via marine waters a during the construction phase which would indirectly affect the distribution and abundance of

the benthic community. Surface water will be attenuated from the hard stand and routed through hydrocarbon interceptors.

Table 6 sets out the absence of potential significant effects due works above high-water mark for Atlantic salt meadows and no mitigation measures are required.

Cork Harbour SPA

Section 5.2 assess the effect on Cork Harbour SPA against the measures deigned to achieve the conservation objectives. Each species is examined. Mitigation is required for the Shelduck, Wigeon Teal, red-breasted merganser, grey plover, lapwing, black tailed godwit, Curlew, redshank, black headed gull and tern (as prey-biomass). Achieving objectives for Wetlands habitat also requires mitigation.

10.2.5. **Mitigation measures** are summarised is in section 5.3 and in the CEMP.

Clarification in the appeal submission also addresses fire prevention design and system and absence of water. **Measures include:**

- Project ecologist
- Surface water attenuation
- Management of vegetation removal prior to bird breeding
- Retention of treelines and scrub external to the boundary – only essential clearance within site.
- Use of screening
- Palisade design for mammal movement
- Noise mitigation measures in the Noise Impact Assessment
- Hours of operation for crepuscular species
- No refuelling within 50m of sensitive receptor – CEMP measures to be taken
- Invasive species control in line with extant permission

10.2.6. By way of clarification it is explained how excavation will not be required and also there is no surface water drainage network in place. Measures such as a silt trap will be installed for the construction stage and works will in the dry and above the high-water mark in relation to the gabion works. Detailed measures for surface water

management and operation phase are set out in 4.4.3. the CEMP is described as a live document to be updated as appropriate at each stage of the development.

10.2.7. I note as Design measures already include screening and lighting and as site will be in darkness most of time and light spillage from motion detected lighting will be avoided through screening

10.2.8. **The NIS conclusion:** works are small scale relative to the Natura sites and of short duration and by themselves pose little risk of significant impact on any of the QI of either European site. Measures for further impact reduction have been proposed to remove any potential to adversely effect the conservation objectives for either site. It is therefore concluded that in light of the objective scientific information that when the above mitigation measure are implemented the project individually or in combination with other plans and projects will not have an adverse effect on the integrity of any Natura 2000 site in view of their conservation objectives.

NIS Appraisal and Assessment

10.2.9. I am satisfied that the applicant has had due regard to the conservation status of all relevant species and habitats and documented threats and pressures. I note that the NIS has been informed by the previous NIS wherein a risk assessment was conducted for all species and also bird monitoring was requirement of the extant permission.

10.2.10. I have also examined the statutory instruments and Conservation Objectives Supporting Documents for these sites, available through the NPWS website.

10.2.11. I am satisfied that the measures proposed as pollution prevention measures can be implemented and managed effectively with the sufficient level of certainty required so as to avoid pollutants entering into the marine environment connected to the European sites in the vicinity and to avoid disturbance and indirect impact on bird species that are QI. I have also examined the Natura 2000 data forms as relevant and the conservation objectives supporting documents for these sites, available through the NPWS website (www.npws.ie). As already flagged, there are two bird species, the Mallard (*Anas platyrhynchos*) and Greenshank (*Tringa nebularia*) listed as qualifying interests in Schedule 3 of SI 391/2021 – European Union Conservation of Wild Birds (Cork Harbour Special Protection Area 004030) Regulations 2021

which are not in the NPWS QI. I am of the view that the potential significant effects from the proposed development are the same for these two bird species as for the other waterbirds listed as qualifying interests. In view of the conservation objectives for the bird species I consider it reasonable that the same could be applied to the Mallard and the Greenshank . I also note the scope of the NIS includes for protection of the Wetlands and Waterbirds habitat which is not included in the Statutory Instrument. Accordingly, I am satisfied that once the mitigation measures as detailed are implemented, no significant effects will accrue to these species. I am satisfied that in-combination effects have also been considered and adequately assessed in the NIS.

10.2.12. **In combination Effects:** The NIS (on page 54 – mis-numbered as 5.2) identifies two projects – the overall site works as permitted (PA ref 19/06783) and the fertiliser facility (which has been refused) both of which have been subject of AA. It does include other projects included in those projects such as the WWTP discharging to the Harbour, industrial licensed sites and ongoing activities .The NIS in this case focuses on the potential effects at the construction phase of the proposal and highlights the small scale of development works and the tying in with the ecology measures as provided for in the extant permission which includes the subject site which I consider reasonable. On this basis I consider it reasonable to conclude that no significant in-combination impacts are likely to arise.

10.2.13. Overall, I am satisfied that the proposed development either alone or in combination with other developments will not pose a risk of significant effects to European Sites in terms of potential risk of pollution of the marine environment including the aquatic habitats and bird species in the vicinity of the site.

10.2.14. Tables 3-4 below summarise the information considered for the Appropriate Assessment and site integrity test. I have taken this information from that provided in the NIS and supporting documentation on file.

Table 3: AA summary matrix for Cork Harbour SPA (Site Code 004030)

Mechanism 1: Release of pollutants at construction stage and contamination of surface water (by dust, accidental spill of fuels, oils, chemicals, machinery) effecting water quality and marine natural environment and habitat degradation

Mechanism 2: Site clearance and drainage and gabion construction 10m from the SAC could impact on habitats resulting habitat loss or alteration or impact foraging or roosting species

Mechanism 3: Release of pollutants at operational stage due to fire

Mechanism 4: Noise and lighting at construction stage such as from plant and machinery giving rise to disturbance and/or displacement

Mechanism 5: Noise and lighting at operational stage such as from equipment giving rise to Disturbance and/or displacement.

		Summary of Appropriate Assessment	
Qualifying interest	Conservation Objectives Targets and attributes (summary- inserted)	Potential adverse effects	Mitigation measures for QI species highlighted
Bird species of Special conservation Interest (SCI): Little Grebe (<i>Tachybaptus ruficollis</i>) [A004] Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Grey Heron (<i>Ardea cinerea</i>) [A028] Shelduck (<i>Tadorna tadorna</i>) [A048] Wigeon (<i>Anas penelope</i>) [A050]	To maintain favourable conservation condition as defined by: Long term population trend stable or increasing No significant decrease in the range, timing or intensity of use of areas by	An assessment of effects was undertaken for all species taking account of attributes and targets Low impact on multiple species due to construction disturbance - visual and noise I consider negligible due to:	Project ecologist Timing of vegetation removal outside bird breeding season Noise mitigation include screens during construction Detailed construction methods along site boundary e.g working in dry conditions

<p>Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Lapwing (<i>Vanellus vanellus</i>) [A142] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</p>	<p>the SCI birds other than that occurring from natural patterns of variation</p>	<p>Context of Cork Harbour being a highly disturbed area and railway allows for quick habituation to noise.</p> <p>Section 5.2.2 identifies impact on wetlands and prey abundance</p> <p>Other indirect effect of water quality deterioration due to pollution pathway identified.</p> <p>negligible adverse effects</p>	<p>and above high water mark</p> <p>Water quality control measures will maintain existing status of Lough Mahon - provided in construction/ best practice measures.</p> <p>Overall introduction of a drainage system with filters for an existing extensive hard surface area of former ammonia plant is potentially beneficial.</p> <p>Fire prevention through micro design and site layout. Drainage system is designed to control fire impacted waters within site to be disposed of off-site.</p>
<p>Common Tern (<i>Sterna hirundo</i>) [A193]</p>	<p>To maintain favourable conservation condition as defined by:</p>	<p>Table 27 identifies impact on Breeding Common Terns from prey</p>	

	<p>No increase in barriers</p> <p>No sig. decline in breeding population, productivity rate, prey biomass</p> <p>Human activities at levels that do not adversely affect the population</p>	<p>biomass in polluted waters.</p> <p>negligible adverse effects</p>	
Wetlands and Waterbirds [A999]	To maintain permanent extent of Habitat area:	<p>No direct impact on habitat area.</p> <p>Construction methods in dry area.</p> <p>Potential adverse impact due to risk of water pollution at operational stage.</p> <p>negligible adverse effects</p>	

Overall conclusion: Integrity test

The applicant concluded that following a detailed assessment of potential significant effects arising from the proposed development alone or in combination with other plans and projects, the risk of significant adverse effects on the QI of the site are not expected and therefore it is not expected that the proposal will have an adverse impact on the integrity of the Natura 2000 sites. Having reviewed the mitigation measures proposed for the proposed development I am satisfied that impacts by way of disturbance and pollution from surface water runoff containing silt, sediment, hydrocarbons or other pollutants, which could impact on the foraging potential for the SCI would be unlikely following the implementation of the mitigation measures proposed. Furthermore, having regard to the

limited nature and duration of works and upgrading of surface water drainage system I concur with the NIS conclusion.

Table 4: AA summary matrix for Great Island Channel SAC (site code 1058)

Great Island Channel SAC			
Summary of Key issues that could give rise to adverse effects: (Indirect)			
Mechanism 1: Release of pollutants at construction stage and contamination of surface water (by dust, accidental spill of fuels, oils, chemicals, machinery) effecting water quality and marine natural environment			
Mechanism 2: Site clearance and drainage and gabion construction 10m from the SAC could impact on habitats resulting habitat loss or alteration or impact foraging or roosting species			
Mechanism 3: Release of pollutants at operational stage due to fire			
Mechanism 4: disturbance of species resulting in habitat loss			
		Summary of Appropriate Assessment	
Qualifying Interest feature *priority habitat Annex I	Conservation Objectives Targets and attributes Detailed Conservation Objectives available in NPWS	Potential adverse effects	Mitigation measures
Mudflats and sandflats not covered by seawater at low tide, [1140] (Map 4 in Conservation objectives document in NPWS website shows	Permanent habitat is stable/increasing Conserve following community types in natural condition: mixed	Pollutants to enter marine environment during the construction and negatively impact water quality. Altered receiving marine waters within	Pollution control measures as above Avoidance of disturbance to species

this to almost bound the site.	sediment to sandy mud with polychaetes and oligochaetes community complex. Intertidal sandy mud community complex; and Intertidal sand community complex.	the SAC as a result of the ingress of pollutants (hydrocarbons, chemicals or sediments) during construction phase Indirectly affects the distribution and abundance of the benthic community. negligible adverse effects	
Atlantic Salt meadows [1330] (map 5 in Conservation objectives document in NPWS website shows this to a few 100m north of site.		<hr/> No adverse effects	
All other habitats are outside a zone of influence of the proposed development			
Otter	No significant decline in distribution, extent of terrestrial, marine or freshwater habitats, no significant decline in fish biomass available, no increase in barriers to connectivity	Potential for disturbance of any significance excluded. No adverse effects	
Overall conclusion: Integrity test			
The applicant concluded that following a detailed assessment of potential significant effects arising from the proposed development alone or in combination with other plans and projects, the risk of significant adverse effects on the QI of the site are not expected			

and therefore it is not expected that the proposal will have an adverse impact on the integrity of the Natura 2000 sites. Having reviewed the mitigation measures proposed for the proposed development I am satisfied that impacts by way of disturbance and pollution from surface water runoff containing silt, sediment, hydrocarbons or other pollutants, which could impact on the foraging potential for the SCI would be unlikely following the implementation of the mitigation measures proposed. Furthermore, having regard to the limited nature and duration of works and upgrading of surface water drainage system I concur with the NIS conclusion.

10.2.15. **Appropriate Assessment Conclusion**

The proposed development to provide for a battery energy storage system and site works including the raising of ground level and all ancillary works on the subject site have been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. In screening the need for Appropriate Assessment, it was determined that in the absence of mitigation measures, the proposed development at Marino Point could result in significant effects on two European sites, Cork Harbour SPA and The Great Island Channel SAC and that Appropriate Assessment was required. The possibility of significant effects on any other European site was excluded.

Following an examination and evaluation of the NIS, and associated material submitted as part of the planning appeal, taking into account of submissions and in light of the foregoing assessment carried out above I conclude that with the implementation of the mitigation measures as set out that the proposed development will not result in significant individual or cumulative effects on the Cork Harbour SPA and The Great Island Channel SAC and that neither will it have any influence on the attainment of the conservation objectives.

I am satisfied that the proposed development individually or in combination with permitted projects, would not adversely affect the integrity of European site(s) Cork Harbour SPA and The Great Island Channel SAC in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the

proposed project and there is no reasonable doubt as to the absence of adverse effects.