



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319147-24

#### Development

Proposed alterations to the terms of the permitted development granted under reference number PL19.PA0032.

#### Location

Yellow River Wind Farm, North of Rhode, County Offaly

#### Planning Authority

Offaly County Council

#### Requester

Green Wind Energy (Wexford) Ltd

#### Type of Application

Application under Section 146B of the Planning and Development Act, 2000 (as amended) to alter previously approved Strategic Infrastructure Development.

#### Inspector

Fiona Fair

#### Date of site inspection

02.10.2024

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## **1.0 Introduction**

- 1.1 This report relates to a request to alter the terms of a previously permitted wind farm development, (the subject of planning permission ABP Ref. 19.PA0032 granted planning permission, under 37E of the Planning and Development Act 2000, (as amended) on the 3<sup>rd</sup> June 2014 - the “2014 Permission”) as altered by An Bord Pleanála Order, dated 09<sup>th</sup> May 2022 under ABP Ref. 312876-22 (the “2022 Alteration”) and Order, dated the 14<sup>th</sup> August 2020 under ABP Ref. 307357-20 (the “2020 Alteration”).
- 1.2 In 2014 the Board granted a 10 year permission for a SID wind farm comprising 29 no. turbines (reduced from 32 no. during the application) with a hub height of up to 110 metres, a rotor diameter of up to 113 metres, and an overall height of up to 166 metres, together with a 110kV substation and other associated development.
- Condition 3. of ABP Ref. 19.PA0032 requires that the period during which the development may be carried out, shall be ten years from the date of the order.
  - Condition 4 of ABP Ref. 19.PA0032 limits the lifetime / lifespan of the windfarm to a period of 25 years from the date of commissioning of the windfarm, unless, prior to the end of the period, planning permission shall have been granted for its retention for a further period.
- 1.4 It is proposed to seek an alteration to the permitted Yellow River Wind Farm development, under Section 146B of the Act which enables the Board to alter the terms of the development the subject of a planning permission, approval or consent granted under this Act. In this regard, Green Energy (Wexford) Ltd. seeks to extend the operational lifetime of the permitted Yellow River Wind Farm (ABP Ref. 19.PA0032) from 25 to 30 years.
- 1.5 There are no additional construction works proposed as part of this request nor is there any proposed change to the wind farm layout or turbine locations as it relates solely to the operational lifetime of the development.
- 1.6 The application is accompanied with a Planning and Environmental Report (PER), and an Appropriate Assessment Screening Report.

## **2.0 Legislative Provisions**

- 2.1 Section 146B(1) of the Planning and Development Act 2000 (as amended) (the Act), provides that, subject to subsections (2) to (8) and to section 146C, upon request of any person who is carrying out or intending to carry out a strategic infrastructure development, the Board may alter the terms of the development the subject of planning permission, approval or other consent granted.
- 2.2 Under sub-section 2(a), as soon as practicable after making such a request, the Board is required to make a decision as to whether the making of the development would constitute a material alteration to the development concerned.
- 2.3 Under sub-section (2)(b), before making its decision under sub-section 146B (2), the Board may invite submissions as it considers appropriate and is required to have regard to any submission made to it on foot of the invitation.
- 2.4 Under sub-section (3)(a), if the Board decide that the making of the alteration would not constitute a material alteration, it is required to alter the planning permission/approval/consent accordingly and to notify the requester and the planning authority of the alteration.
- 2.5 Under subsection (3)(b), if the Board decide that the making of the alteration would constitute the making of a material alteration, the Board is required to:
- Request the information specified in Schedule 7A, unless it or an EIAR has already been provided by the requester (sub-section (3)(b)(i)). This information is required to be accompanied by any further relevant information on the characteristics of the alteration and its likely significant effects on the environment including, where relevant, how environmental effects pertaining to EU legislation other than the EIA Directive have been taken into account (sub-section (3A)) and can include mitigation measures (sub-section (3B)).
  - Following receipt of such information, determine whether to make the alteration, make an alteration of the terms of the development which differs from the proposed alteration (subject to it not representing a more significant alteration), or refuse to make the alteration (sub-section (3)(b)(ii)).

- 2.6 Under subsection (4), before making a determination under sub-section (3)(b)(ii), the Board is required to determine whether the extent and character of the alteration being requested, or being considered by the Board, would be likely to have significant effects on the environment.
- 2.7 Under subsection (5), if the Board determine that no significant environmental effects will arise, they proceed to make a determination under subsection (3)(b)(ii). If the Board determines that significant effects will arise, the provisions of section 146C apply. These provisions relate to the preparation of an environmental impact assessment report.
- 2.8 Under subsection (7)(a), in making their determination, the Board is required to have regard to:
- The criteria for the purposes of determining which classes of development are likely to have significant effects on the environment set out in any regulations made under section 176,
  - The criteria set out in Schedule 7 to the Planning and Development Regulations 2001,
  - The Schedule 7A submitted by the requester,
  - The further relevant information, if any, referred to in subsection (3A) and the description, if any, referred to in subsection (3B) (summarised above),
  - The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and
  - Whether the development is situated in or would have potential to impact on a European site, or a recognised or protected area of natural heritage,
- 2.9 Under subsection (7)(b), the Board is required to include in its determination, the main reasons and considerations, with reference to the relevant criteria listed in Schedule 7 to the Planning and Development Regulations 2001, on which the determination is based.
- 2.10 Under subsection (8)(a) before making a determination under subsection (3)(b)(ii) or (4) the Board is required to require the requester to make information about the alteration available for inspection, notify appropriate persons that the information is

available and invite submissions or observations from these persons. Further under subsection 8(b) the Board is required to have regard to these submissions in its determination.

### 3.0 Planning History

Permission granted on site:

**ABP Ref. 19.PA0032:** In June 2014 An Bord Pleanála granted permission for a windfarm development comprising 29 turbines (reduced from 32 turbines during the planning application) with a hub height of up to 110 metres and a rotor diameter of up to 113 metres and an overall height of up to 166 metres together with a 110kV substation and other associated development.

Condition 3. States:

“The period during which the development hereby permitted may be carried out shall be ten years from the date of this order”.

“**Reason:** Having regard to the nature and extent of the proposed development, the Board considered it appropriate to specify a period of validity of this permission in excess of five years”.

Condition 4. states:

“The date of commissioning of the wind farm shall be notified to, and established in writing with, the planning authority before any commercial use of the development is brought about. **This permission shall be for a period of 25 years from the said date of commissioning of the wind farm.** The wind turbines and related ancillary structures shall be removed at the end of this period of 25 years unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period”.

“**Reason:** To enable the relevant planning authority to review the operation of the wind farm in the light of the circumstances then prevailing”.

**ABP Ref. 312876-22:** On the 09<sup>th</sup> May 2022 An Bord Pleanála made a decision to alter the decision made under ABP.PA0032, for alterations, described as identify

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

The Board decided in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, that the proposed alteration would not result in a material alteration to the terms of the development, the subject of the permission

**ABP Ref. 307357-20:** On the 14<sup>th</sup> August 2020 An Bord Pleanála made a decision to alter the decision, made under 19.PA0032, comprising the lengthening of blades so as to increase the rotor diameter from 113m (permitted) to 126m, whilst retaining the permitted layout and tip height of 156m (11 turbines) and 166 metres (18 turbines) and remaining within the maximum tip height of between 156 and up to 166 metres. In effect, the rotor diameter would increase by 13m and the hub height would be reduced by 7m. The Board decided in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, that the proposed alteration would not result in a material alteration to the terms of the development, the subject of the permission

## **4.0 Background to the Proposed Alterations**

- 4.1 The Planning and Environmental Report submitted with the request submits that the proposed amendment is purely temporal in nature, with no additional physical works proposed.
- 4.2 The Section 1469(B) request seeks to solely extend the time that the turbines will be in operation for before they are decommissioned, or a further retention is required.
- 4.3 I highlight that the original planning application for Yellow River Wind Farm was supported by an Environment Impact Assessment Report (EIAR) and a Natura Impact Statement (NIS) and was subject to an Environmental Impact Assessment by the Board, which deemed the provision of a wind farm at this location to be appropriate, subject to the implementation of the mitigation measures set out within the EIAR and the conditions attached to the grant of planning permission on foot of ABP 19.PA0032.

- 4.4 It is contended that the EIAR submitted with the original permission considered a 30-year timeframe. The applicant submits that the extension of the operational life of the wind farm from 25 to 30 years would not give rise to any likely significant environmental effects. Neither would the extension of operational life materially alter the findings of the EIAR submitted with the parent permission.
- 4.5 It is highlighted that the Offaly County Development Plan 2021-2027, County Wind Energy Strategy, specifically states that:
- “Wind energy developments are expected to have an operational lifespan of approximately 30 years, after which time the site will be reviewed and assessed to determine whether the planning permission may be renewed, or whether the wind energy development may be repowered (requiring planning permission) or otherwise decommissioned”.<sup>1</sup>
- 4.6 The applicant submits that wind energy developments are regularly permitted for periods of 30 years and as such, the subject proposal is entirely consistent with both the current Development Plan and the current approach being taken by both planning authorities and the Board in relation to the operational lifetime of wind energy developments.
- 4.7 It is also highlighted that the EIAR carried out and submitted as part of the original application for the permitted Yellow River Wind Farm assessed the development with a 30-year lifespan. Therefore, it is contended that the proposal to extend the operational life from 25 years to 30 years is consistent with the EIAR and will not give rise to any significant environmental impacts other than those assessed previously.

## **5.0 Scope of Request**

- 5.1 This proposed alteration relates solely to the operational lifetime of Yellow River Wind farm, as stipulated by Condition 4 attached to the 2014 Permission for the wind farm (ABP Ref. PA19.PA0032).

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<sup>1</sup> Offaly County Development Plan 2021 – 2027, County Wind Energy Strategy, pg 5

- 5.2 Specifically, it is proposed to amend Condition 4 such that the operational lifespan of the Yellow River Wind Farm is extended by 5 no. years, from 25 no. to 30 no. years from the date of commissioning.
- 5.3 There are no proposed modifications to the site layout, infrastructure or the technology to be used. No additional construction works or changes to site operations are necessary for the proposed alteration. No additional consumption of natural resources will arise as no construction is required for this alteration. As a result of the proposed alteration, electricity generation, routine maintenance and operational activities associated with the permitted wind farm will continue for an additional five-year period.
- 5.4 It is submitted that modern wind turbines now have an operational lifespan in excess of 30 years with accepted and standard maintenance programmes. This is reflected in the decisions issued by the Board for similar wind farm SID permission, which commonly provide for operational periods of 30 years or more.
- 5.5 The applicant has submitted a table of 10 no. SID wind farm developments which have been granted by the Board, with 30-year operational periods, see Table 1 of the Planning and Environmental Report. The decision dates vary from 2016 – 2021.
- 5.6 For clarity, this Section 146B request is seeking for Condition 4 to be amended from that stated previously above to the following:

“The date of commissioning of the wind farm shall be notified to, and established in writing with, the planning authority before any commercial use of the development is brought about. This permission shall be for a period of **30 years** from the said date of commissioning of the wind farm. The wind turbines and related ancillary structures shall be removed at the end of this period of **30 years** unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.”

## **6.0 Applicants Case**

- 6.1 The following is a summary of the main issues raised by the requester in the two reports submitted in support of the proposed Section 146B for the extension of operational lifespan of Yellow River Wind Farm from 25 years to 30 years:

### Section 146B Planning and Environmental Report:

- Section 1 sets out an introduction and includes Table 1 which provides 10 examples of SID Permissions for Wind Farms with Operational Lifetimes of 30 years.
- Section 2 provides site location and context and a summary of the planning history of the wind farm.
- Section 3 sets out the national, regional, and local planning context. Refers to the Climate Action Plan 2024. All policy strongly favours renewable energy development. The alteration is fully in keeping with goals and targets to decarbonise the economy.
- The applicant does not consider the proposed alteration would constitute a material alteration of the terms of the original SID. This assertion is guided by examples of SID Permissions for wind farms with operational lifetimes of 30 years, the original EIAR, potential for environmental impact, planning policy context, and the nature of the permitted development and proposed alteration. The nature of the request, extending the operational lifetime of the windfarm from 25 to 30 years, is minor in nature.
- The findings and conclusion of the Environmental Report are summarised in 'Table 2: Screening Analysis – Likely Significant Direct and Indirect Effects'. It has been found that the significance of the likely environmental affect will be the same as those assessed in the original EIAR and / or in the 2020 and 2022 Environmental reports. e.g. health and safety, shadow flicker, residential amenity, biodiversity, land, soils and geology, water, air and climate, noise, landscape and visual, archaeology and cultural heritage, material assets (traffic and transport & telecommunications and aviation). No further data was considered or needed compared to the information set out in the original EIAR or 2020 and 2022 Environmental Reports. I note that an updated biodiversity survey was carried out. However, it is submitted that the proposed amendment to the lifetime of the permission for the wind farm will not result in an increase in habitat loss from what was originally assessed as part of the EIAR (PL19.PA0032) as there are no additional physical works proposed and no additional land take is required as part of the proposed amendment.

- It is estimated that the wind farm will result in an approximate reduction of 144,000 tonnes of CO<sub>2</sub>, per annum. This would amount to an approximate total reduction of c. 3,600,000 tonnes of CO<sub>2</sub> over the course of the 25-year operational lifetime currently permitted, while the total CO<sub>2</sub> reduction associated with a 30-year lifetime would amount to c. 4,320,000 tonnes. This amounts to a further reduction of approximately 720,000 tonnes of CO<sub>2</sub>, associated with the proposed alteration. As such, the proposed alteration seeks to maximise the benefits associated with air quality and climate improvements without the need to provide any additional works or infrastructure.
- No likely significant environmental effects beyond those already considered in the original EIAR and addressed via mitigation or condition of the permission have been found.
- The Section 146B request lodged with An Bord Pleanála concludes that the proposed extension of the operational life of SSE Renewable's Yellow River Wind Farm (PA19.PA0032) is appropriate and will not result in a material alteration to the terms of the permitted development (PA19.PA0032).

#### Article 6(3) Appropriate Assessment Screening Report:

- The introduction to the report sets out that the Yellow River wind farm was subject of appropriate assessment (AA) under 19.PA0032 and was approved by the Board on the 3rd June 2014, as altered by the 2020 requested alteration and the 2022 requested alteration which were not considered to be material alterations.
- A description of the baseline ecological environment is set out in section 2 of the report. As noted above, an updated biodiversity survey was carried out, comprising a multidisciplinary walkover survey conducted on 8th of February 2022 by MKO:
  - No third schedule invasive species were recorded during the walkover survey.
  - There were no QI's or SCI's of any nearby European sites observed during the site walkover. While Whooper Swan and signs of Otter were observed during the visit, these are considered to be of a local population.

- Section 3 of the report sets out relevant European Sites identified within the likely zone of impact.
  - Table 3.1 assesses relevant European Sites which are within the likely Zone of Impact. The assessment considers any likely direct or indirect impacts of the proposed development, both alone and in combination with other plans and projects, on European Sites by virtue of the following criteria: size and scale, land-take, distance from the European Site or key features of the site, resource requirements, emissions, excavation requirements, transportation requirements and duration of construction, operation and decommissioning were considered in this screening assessment.
  - The site synopses and conservation objectives of these sites, as per the NPWS website ([www.npws.ie](http://www.npws.ie)), were consulted and reviewed at the time of preparing the AA screening report, dated 05/01/2024.
  - Eight European sites are identified and set out in table 3.1. There are six SACs and two SPAs. The closest is Raheenmore Bog SAC approx. 3.8km south west of the site. Lough Ennell is the closest SPA, approx. 10km to the north east. Drainage from the project is to the Boyne catchment. The River Boyne and River Blackwater SAC and SPA (kingfisher being the sole special conservation interest) are to the north east. There will be no direct effects as the project footprint is located entirely outside all the designated sites. The proposed extension of lifespan poses no material changes to the permitted Yellow River Wind Farm development. As the proposed extension of the lifespan of the permitted development, does not give rise to the need for any mitigation measures to avoid or reduce harmful effects on the special conservation interest of the identified sites, it is concluded that the extension of lifespan will not give rise to any direct or indirect effects to any European site.
  - The likely cumulative impact of the proposed extension of lifespan on European Sites, in combination with other plans and projects was considered. The online planning system for Offaly County Council and Westmeath County Council, was consulted on the 05/01/2024 for the townlands surrounding the permitted development location. An extensive

list of additional projects identified in the last five years within the vicinity of the granted yellow river wind farm are set out in section 3.2 of the AA screening report. The 2020 and 2022 requested and permitted non material alterations are noted as is Mount Lucas and Cloncreen wind farms and the proposed amendment of 5 years to the operational lifespan is not expected to result in an in-combination effect when considered with other developments.

- The AA screening report concluded beyond reasonable scientific doubt, in view of best scientific knowledge, on the basis of objective information and in light of the conservation objectives of the relevant European sites, that the proposed 5 year extension of operation for the permitted development individually or in combination with other plans and projects, will not have a significant effect on any European Site.

## **7.0 Public Consultation**

- 7.1 As noted in section 2 above, section 146B of the Planning & Development Act, 2000 (as amended) is a two-stage process. The first stage is for the Board to consider whether or not the proposed alteration would constitute 'the making of a material alteration of the terms of the development concerned' under section 146B(2)(a). If the decision is that the making of the alteration would not constitute the making of a material alteration, then the Board shall alter the planning permission under section 146B(3)(a).
- 7.2 The second stage only arises if the Board decides that the proposed alteration would constitute such a material alteration under section 146B(3)(b). Clearly, if the outcome of stage one is a decision that the proposed alteration would not constitute a material alteration, then there is no basis for addressing the matters referred to in stage two.
- 7.3 In deciding in the first instance on this issue of materiality, the Board has the discretion to invite submissions from any person or class of persons as the Board considers appropriate. Under section 146B(2)(b), the Board may invite submissions prior to making this decision.

- 7.2 As this Section 146B application seeks solely to extend the permitted lifetime of the development by 5 years i.e. from 25 to 30 years, regard being had to Section 146B(2)(a) I recommend submissions are not necessary, see assessment below.
- 7.3 The Board informed Offaly County Council on 29th February 2024 of the request received and enclosed a copy of the request which, it was advised, may be made available for public inspection at the offices of the local authority. The planning authority was not invited to make any submission at this stage.

## **8.0 Assessment**

### **8.1 Consideration of Materiality**

- 8.1.1 The first consideration in relation to this request to alter the terms of 19.PA0032 is to determine if the making of the alteration would constitute the making of a material alteration of the terms of the wind farm development as granted. The issue that requires assessment is whether the extension of the operation lifetime of the Yellow River Wind Farm by 5 years i.e. from 25 to 30 years is materially different compared with that which was the subject matter of the Board's previous assessment.
- 8.1.2 On the 3<sup>rd</sup> June 2014 the Board granted a 10 year permission for a SID wind farm comprising 29 no. turbines (reduced from 32 no. during the application) with a hub height of up to 110 metres, a rotor diameter of up to 113 metres, and an overall height of up to 166 metres, together with a 110kV substation and other associated development.
- Condition 3. of ABP Ref. 19.PA0032 requires that the period during which the development may be carried out, shall be ten years from the date of the order.
  - Condition 4 of ABP Ref. 19.PA0032 limits the lifetime of the windfarm to a period of 25 years from the date of commissioning of the windfarm, unless, prior to the end of the period, planning permission shall have been granted for its retention for a further period.
- 8.1.3 Additionally in 2020 an Alteration Order was made by An Bord Pleanála dated 14th August 2020, Case Number ABP-307357-20 under Section 146B(3)(a) of the Planning and Development Act 2000 (as amended). The alterations permitted comprise the lengthening of wind turbine blades so as to increase the rotor diameter

from 113m to 126m, whilst retaining the permitted layout and tip heights of between 156-166 meters.

- 8.1.4 Additionally in 2022 an alteration request, lodged to An Bord Pleanála 25th February 2022 was made under Section 146B(3)(a) of the Planning and Development Act 2000 (as amended) and was approved as of 9th May 2022. The alteration requested is that a rotor diameter of either 117m or 126m will be permitted while the maximum tip heights permitted in the 2014 Yellow River Wind Farm permission will be unaffected. An Bord Pleanála did not consider the alteration to be material in granting this request.
- 8.1.5 On the 26th of November 2023 Green Wind Energy (Wexford) Ltd. Applied for an Extension of Duration for 18 months to extend the appropriate period of the planning permission under the provisions of Section 42(1) of the 2000 Act. Planning Permission for the wind farm expires on the 2<sup>nd</sup> of June 2024 and an Extension of Duration was sought from Offaly County Council to extend the appropriate period by 18 months in order to complete the construction of the Turbines previously consented under planning reference ABP Ref.19.PA0032. The Balance of works which remain to be completed as stated in the EOD application to Offaly County Council will comprise the following on each of the consented 29 turbines:
- Completion of Tower, Nacelles and blades.
  - Completion of connection to grid.
  - The delivery and installation of a transformer within the substation.
- 8.1.6 It is submitted in the information on file that all other works including civil works, turbine foundations, delivery of turbine components to site, electrical cabling, substation components and buildings will be completed by 2nd June 2024.
- 8.1.7 Having carried out a search of Offaly County Council GIS Viewer it is not evident if this permission has been decided. Having carried out a site visit, on the 02.10.2024 it is evident that the Yellow River Wind Farm has been constructed, complete with towers, nacelles and blades. However, while it appears complete, it was not operational at the time of my inspection.
- 8.1.8 As stated above it is now proposed to seek an alteration to the permitted Yellow River Wind Farm development, under Section 146B of the Act. In this regard, Green

Energy (Wexford) Ltd. seeks to extend the operational lifetime of the permitted Yellow River Wind Farm (ABP Ref. 19.PA0032) from 25 to 30 years, this is essentially an amendment to condition 4 of the initial ABP.Ref.PA0032 which limits the operational lifetime of the wind farm to 25 years, unless the operational lifetime is extended.

- 8.1.8 There are no additional construction works proposed as part of this request nor is there any proposed change to the wind farm layout or turbine locations as it relates solely to the operational lifetime of the development. The applicant refers to examples of SID Permissions for wind farms with operational lifetimes of 30 years, the original EIAR, potential for environmental impact, planning policy context, and the nature of the permitted development and proposed alteration.
- 8.1.9 It is estimated by the applicant that the wind farm will result in an approximate reduction of 144,000 tonnes of CO<sub>2</sub>, per annum. This would amount to an approximate total reduction of c. 3,600,000 tonnes of CO<sub>2</sub> over the course of the 25-year operational lifetime currently permitted, while the total CO<sub>2</sub> reduction associated with a 30-year lifetime would amount to c. 4,320,000 tonnes. This amounts to a further reduction of approximately 720,000 tonnes of CO<sub>2</sub>, associated with the proposed alteration. As such, the proposed alteration seeks to maximise the benefits associated with air quality and climate improvements without the need to provide any additional works or infrastructure.
- 8.1.10 I am cognisant that the original permission sought a lifespan of 30 years and from my reading of the Inspectors report Reg. Ref. 19.PA0032 it appears that following submission of the chief executives report from Offaly County Council the applicant accepted, at that time, that a 25- year lifespan for turbines (in place of the 30-year span sought) with provision for a 2-3 year decommissioning period, was reasonable. Cognisance to the financial investment required and financial feasibility implications for such largescale renewable energy projects. To national, regional and local policy in favour of renewable energy and decarbonisation. I accept that the applicants have set out an acceptable justification in terms of appropriateness for the 30-year operational lifespan for the planning permission.
- 8.1.11 I am satisfied that the proposed alteration would not constitute the making of a material alteration to the permitted Yellow River Wind Farm, subject to consideration

of environmental impact and AA as considered below. The extension of the life of the permission as sought by the first party is therefore appropriate.

## 8.2 The Potential for Significant Environmental Effects

- 8.2.1 The Environmental Report accompanying the current request assesses the impact of the proposed alteration options relative to the impacts identified in the original EIS/EIAR and the previous s146B requests. I highlight there would be no alteration to the layout of the wind farm or to turbine locations. Construction practices, traffic movements, commissioning and operation etc. would not be affected by the extension of the operational lifetime of the permission from 25 to 30 years.

### Schedule 7

- 8.2.2 Schedule 7 of the Regulations sets out criteria for determining whether sub-threshold development listed in Part 2 of Schedule 5 should be subject to EIA. These are examined below in respect of the proposed alterations.

Schedule 7 Criteria and Assessment
<p><b>Characteristics of the proposed development</b> (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>
<p><b>Assessment</b></p> <p>The alteration comprises the extension of the operation lifetime of the Yellow River Wind Farm by 5 years i.e. from 25 to 30 years from the date of commissioning. There are no additional works proposed as part of this request nor is there any proposed change to the windfarm layout or turbine locations as it relates solely to the operational lifespan of the development.</p> <p>Having regard to the foregoing, I am satisfied in principle, that the proposed alterations will not give rise to significant environmental effects by virtue of the characteristics of the development.</p>
<p><b>Location of proposed development</b> (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>
<p><b>Assessment</b></p> <p>The proposed alteration does not include for any modifications to the permitted turbine envelope or the permitted turbine arrangement on-site. The proposed alteration relates to the extension of the lifetime of the Yellow River Wind Farm by 5 no. years. In the context of what has already been permitted, the proposed alteration is not considered to be significant and will not materially alter the identified impacts already considered in the original EIAR, the Board's previously completed EIA, the assessment of 19.PA0032, 2020</p>

Environmental Report, the 2022 Environmental Report and what has been addressed and mitigated by conditions of the permission.

Furthermore, all mitigation measures presented in the original EIAR and NIS will remain and will be implemented as per Condition 2 of the extant permission. As such, there will be negligible potential for any novel, or intensification of impacts associated with the proposed alteration.

Having regard to the foregoing, I am satisfied in principle, that the proposed alterations will not give rise to significant environmental effects by virtue of the location of the development.

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

#### **Assessment**

Having regard to the foregoing, I am satisfied that the proposed alterations, which essentially comprise the extension of the operation lifetime of the Yellow River Wind Farm by 5 years i.e. from 25 to 30 years from the date of commissioning, **will not** result in any significant effects on the environmental parameters considered in the original application and EIAR, over and above those already assessed and considered to be acceptable in the parent permission (ABP- Reg. Ref. 19.PA0032).

Since the Board determined the parent permission, other developments have been proposed or permitted in the area of the site, including the extensive list of additional projects identified in the last five years within the vicinity of the granted yellow river wind farm, set out in section 3.2 of the AA screening report on file. The 2020 and 2022 requested and permitted non material alterations ABP-307357-20 and ABP-312876-22 are noted as is Mount Lucas and Cloncreen wind farms. However, given the modest nature of the proposed alterations and absence of likely significant environmental effects arising from these, I am satisfied that there is no potential for significant cumulative, in-combination or interactive effects as a consequence of the proposed alterations.

### **Schedule 7A – Screening**

8.2.3 I have undertaken a screening determination on the basis of the Schedule 7A documentation submitted, see Appendix 1 Table 3 Screening Determination of this report. My screening determination is as follows:

#### **Screening Determination**

8.2.4 Having regard to:

- The parent permission granted under ABP-19.PA0032, which the subject alterations seek to amend,
- The modest nature and scale of the proposed alteration,
- The location of the proposed alterations, within the footprint of the permitted development and within an existing industrial site,
- The pattern of development in the surrounding area,

- The location of the development outside of any sensitive location specified in Article 109(4)(a)(v) of the Planning and Development Regulations 2001, as revised,
- The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as revised,

I do not consider the proposed alteration would have any environmental impact above those previously considered in the 2014, 2020 and 2022 applications. I refer the Board to Form 3, the Screening Determination, attached to this report.

### **8.3 Appropriate Assessment Screening**

- 8.3.1 As set out above, in section 6.0 of this report, the applicant has submitted an Article 6(3) AA Screening Report. Table 3.1 assesses relevant European Sites which are within the likely Zone of Impact of the proposed alteration. The assessment considers any likely direct or indirect impacts of the proposed development, both alone and in combination with other plans and projects, on eight European Sites by virtue of the following criteria: size and scale, land-take, distance from the European Site or key features of the site, resource requirements, emissions, excavation requirements, transportation requirements and duration of construction, operation and decommissioning were considered in this screening assessment. I consider this assessment reasonable. See section 6.0 for detailed summary of the report.
- 8.3.2 The AA screening report concludes that there will be no direct effects on any European site, as the project footprint is located entirely outside all the designated sites. The proposed extension of lifespan poses no material changes to the permitted Yellow River Wind Farm development. As the proposed extension of the lifespan of the permitted development, does not give rise to the need for any mitigation measures to avoid or reduce harmful effects on the special conservation interest of the identified sites, it is concluded that the extension of lifespan will not give rise to any direct or indirect effects to any European site.

**Summary Table 1 of European Sites Within the Zone of Influence of the Proposed Development**

<b>Special Areas of Conservation (SAC's)</b>		
<b>Qualifying Interest</b>	<b>Conservation Objectives</b>	<b>Connectivity-Source-Pathway-Receptor</b>
<p>Raheenmore Bog SAC [000582]</p> <p>Distance: 3.8km south west of the permitted wind farm study area</p>	<p>[7110] Raised Bog (Active)</p> <p>[7120] Degraded Raised Bog</p> <p>[7150] Rhynchosporion Vegetation</p>	<p>The extension of lifespan will not give rise to any direct or indirect effects on this European site.</p> <p>Screened out. No hydrological impact and distance sufficient for no impacts due to proposed amendment.</p>
<p>Split Hills and Long Hill Esker SAC [001831]</p> <p>Distance: 8km west of the permitted wind farm study area</p>	<p>[6210] Orchid-rich Calcareous Grassland</p>	<p>The extension of lifespan will not give rise to any direct or indirect effects on this European site.</p> <p>Screened out. No hydrological impact and distance sufficient for no impacts due to proposed amendment.</p>
<p>Mount Hevey Bog SAC [002342]</p> <p>Distance: 8.4km north east of the permitted wind farm study area.</p>	<p>7110 Active raised bogs</p> <p>7120 Degraded raised bogs still capable of natural regeneration</p> <p>7150 Depressions on peat substrates of the Rhynchosporion</p>	<p>The extension of lifespan will not give rise to any direct or indirect effects on this European site.</p> <p>Screened out. No hydrological impact and distance sufficient for no impacts due to proposed amendment.</p>

Lough Ennell SAC [000685]  Distance: 9.6km north west of the permitted wind farm study area	7230 Alkaline fens	The extension of lifespan will not give rise to any direct or indirect effects on this European site.  Screened out. No hydrological impact and distance sufficient for no impacts due to proposed amendment.
River Boyne and River Blackwater SAC [002299]  Distance: 11.2km north east of the permitted wind farm study area Hydro distance at closest point: approx. 17.7km	7230 Alkaline fens  91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i> , <i>Salicion albae</i> )  1099 River Lamprey ( <i>Lampetra fluviatilis</i> )  1106 Salmon ( <i>Salmo salar</i> )  1355 Otter ( <i>Lutra lutra</i> )	The extension of lifespan will not give rise to any direct or indirect effects on this European site.  Screened out. No hydrological impact and distance sufficient for no impacts due to proposed amendment.
The Long Derries, Edenderry SAC (000925)  Distance: 11.7km south east of the permitted wind farm study area	6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates ( <i>Festuco-Brometalia</i> ) (*important orchid sites)	The extension of lifespan will not give rise to any direct or indirect effects on this European site.  Screened out. No hydrological impact and distance sufficient for no impacts due to proposed amendment.
Wooddown Bog SAC (002205)	7120 Degraded raised bogs still capable of natural regeneration	The extension of lifespan will not give rise to any direct or indirect effects on this European site.

Distance: 12.8km north west of the permitted wind farm study area.		Screened out. No hydrological impact and distance sufficient for no impacts due to proposed amendment.
<b>Special Protection Area (SPA)</b>		
Lough Ennell SPA [004040]  Distance: 10.2km north west of the permitted wind farm study area	[A059] Pochard ( <i>Aythya ferina</i> )  [A061] Tufted Duck ( <i>Aythya fuligula</i> )  [A125] Coot ( <i>Fulica atra</i> ) [A999] Wetland and Waterbirds	The extension of lifespan will not give rise to any direct or indirect effects on this European site.  Screened out. No hydrological impact and distance sufficient for no impacts due to proposed amendment.
River Boyne and River Blackwater SPA [004232]  Distance: 11.2km northeast of the permitted wind farm study area.  Hydro distance at closest point: approx. 17.7km	[A229] Kingfisher ( <i>Alcedo atthis</i> )	The extension of lifespan will not give rise to any direct or indirect effects on this European site.  Screened out. No hydrological impact and distance sufficient for no impacts due to proposed amendment.

8.3.4 Having considered the Board's determination on AA in ABP19.PA0032, ABP-307357- 20 and ABP-312876-22 the nature, scale, and extent of the alteration proposed relative to the development subject of the previous applications, and the information on file, I consider it reasonable to conclude that the alteration proposed, extending the operational lifetime of the wind farm by 5 years, from 25 to 30 years, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European sites in view of the conservation objectives for those sites.

## **8.4 Conclude on Materiality**

- 8.4.1 Overall I am of the opinion, having fully considered the proposed alteration and the development as granted under 19.PA0032 and altered under ABP-307357-20 and ABP-312876-22, cognisance being had that the EIAR carried out and submitted as part of the original application for the permitted Yellow River Wind Farm (which assessed the development with a 30-year lifespan), the conditions attached to the SID permission, the environmental and appropriate assessment implications of the proposed alternative, that the proposal to extend the operational life from 25 years to 30 years is acceptable, consistent with the EIAR and will not give rise to any significant environmental impacts other than those assessed previously.
- 8.4.2 In this regard, I consider it reasonable to conclude that the proposal subject of this request does not constitute the making of a material alteration of the development as granted permission under 19.PA0032 and altered under ABP-307357-20 and ABP-312876-22.

## **9.0 Recommendation**

- 9.1 I recommend that the Board decides that (a) the making of the alterations subject of this request does not constitute the making of a material alteration of the terms of the development as approved under ABP.19.PA0032 and ABP-307357-20 and ABP-312876-22, and (b) the proposed modification will not give rise to significant environmental effects or significant effects on the integrity of any European site, for the reasons stated below.

## **10.0 Draft Order**

**REQUEST** received by An Bord Pleanála on the 21<sup>st</sup> February 2024 from Green Wind Energy (Wexford) Ltd. c/o MKO Planning & Environmental Consultants, Tuam Road, Galway, Co. Galway, under section 146B of the Planning & Development Act, 2000 (as amended), to alter the terms of a strategic infrastructure development described as the Yellow River Wind Farm, north of Rhode, County Offaly, comprising 29 turbines and all associated works, permitted under ABP Reg. Ref. 19.PA0032.

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

**AND WHEREAS** the proposed alteration is described as follows: amend condition No. 4 of the initial ABP.Ref.PA0032 application such that the operational lifespan of the Yellow River wind farm is extended by 5 no. years from 25 years to 30 years, from the date of commissioning.

**AND WHEREAS** having regard to the issues involved, the Board decided, in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, not to invite submissions or observations from the public in relation to the matter,

**AND WHEREAS** the Board decided, in accordance with section 146B(2)(a) of the Planning & Development Act 2000, as amended, that the proposed alteration would not result in a material alteration to the terms of the development, the subject of the approval,

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

**NOW THEREFORE** in accordance with section 146B(3)(a) of the Planning and Development Act, 2000, as amended, the Board hereby alters the abovementioned decision so that the approved development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on the 21st day of February 2024, for the reasons and considerations set out below.

## **MATTERS CONSIDERED**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard.

## **REASONS AND CONSIDERATIONS**

In coming to its decision, the Board had regard to the following:

- (i) the nature and scale of the proposed alteration i.e. extend the operational lifespan of the Yellow River wind farm by 5 no. years from 25 years to 30 years, from the date of commissioning,
- (ii) The documentation on file,
- (iii) The report of the Inspector.

Having regard to:

- the nature and scale of the wind farm development permitted under An Bord Pleanála Ref. No. 19.PA0032
- the examination of the environmental impact, including in relation to Natura 2000 sites, carried out in the course of that application,
- the limited nature and scale of the alterations when considered in relation to the overall permitted development
- the location of the proposed alterations, within the footprint of the existing Yellow River Windfarm site,
- the absence of any significant new or additional environmental impacts arising as a result of the proposed alterations, and
- the report of the Board's inspector, which is adopted,

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

## **Appropriate Assessment Screening**

In conducting a screening exercise for appropriate assessment, the Board considered the nature, scale and context of the proposed alteration, the documentation on file including the Report in support of AA Screening submitted with the application, the submissions on file, and the assessment of the Inspector in relation to the potential for effects on European Sites. In undertaking the screening exercise, the Board accepted the analysis and conclusions of the Inspector. The Board concluded that, by itself and in combination with other development in the vicinity, the proposed alteration would not be likely to have significant effects on any other European Site in view of their conservation objectives. A Stage 2 Appropriate Assessment (and submission of an NIS) is not, therefore, required. In reaching this conclusion, the Board took no account of mitigation measures intending to avoid or reduce the potentially harmful effects of the development on any European site.

## **Environmental Impact Assessment Screening:**

The Board considered the potential environmental impacts that might arise due to the proposed alteration, both by itself and in combination with other development in the vicinity. Having regard to the characteristics of the receiving environment, the characteristics of the proposed alteration, and the submissions on file, the Board is satisfied that the proposed alteration would not be likely to have significant effects on the environment. The Board concurred with the analysis and conclusions of the Inspector in this matter. The Board, therefore, concluded that the preparation of an environmental impact statement is not required, either by means of any mandatory requirement or following sub-threshold analysis.

Having regard to:

- The parent permission granted under ABP-19.PA0032, which the subject alterations seek to amend,
- The modest nature and scale of the proposed alteration,
- The location of the proposed alteration, within the footprint of the permitted development and within an existing industrial site,
- The pattern of development in the surrounding area,

- The location of the development outside of any sensitive location specified in Article 109(4)(a)(v) of the Planning and Development Regulations 2001, as revised,
- The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as revised,

It is considered that, following the EIA Screening Determination, the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

### **Conclusions on Proper Planning and Sustainable Development:**

Having regard to:

- the nature and details of the parent permission, An Bord Pleanála Ref. No. 19. PA0032, ABP-307357-20 and ABP-312876-22.
- the character of the alteration, including its scale and form,
- the location of the proposed alterations, within the footprint of the existing Yellow River wind farm site (ABP.19.PA0032),
- the absence of any significant new or additional environmental impacts arising as a result of the proposed alterations, including landscape or visual effects or effects on biodiversity or archaeology, and
- the report of the Board's inspector, which is adopted,

The Board concluded that the making of the proposed alteration would be in accordance with the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has

influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Fiona Fair

Senior Planning Inspector

9<sup>th</sup> October 2024

## EIA – Screening Determination

A. CASE DETAILS		
<b>An Bord Pleanála Case Reference - 319147-24</b>		
<b>Development Summary</b>	Extend the operational lifespan of the Yellow River wind farm by 5 no. years from 25 years to 30 years, from the date of commissioning, (amend Condition 4 of parent permission ABP.19.PA0032	
	Yes / No / N/A	Comment (if relevant)
<b>1.</b> Was a Screening Determination carried out by the PA?	N/A	No
<b>2.</b> Has Schedule 7A information been submitted?	Yes	Yes
<b>3.</b> Has an AA screening report or NIS been submitted?	No	Yes
<b>5.</b> Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	No

## EIA – Screening Determination

B. EXAMINATION	Where relevant, briefly describe the characteristics of impacts ( i.e. the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment?  Yes/ No/ Uncertain
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?		No
1.2 Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?		No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?		No
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?		No
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?		No
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?		No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?		No

## EIA – Screening Determination

<b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?		<b>No</b>
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?		<b>No</b>
<b>1.10</b> Will the project affect the social environment (population, employment)		<b>No</b>
<b>1.11</b> Is the project part of a wider large-scale change that could result in cumulative effects on the environment?		<b>No</b>
<b>2. Location of proposed development</b>		
<b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan		<b>No</b>
<b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?		<b>No</b>
<b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?		<b>No</b>
<b>2.4</b> Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?		<b>No</b>

## EIA – Screening Determination

<b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?		<b>No</b>
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?		<b>No</b>
<b>2.7</b> Are there any key transport routes(e.g. National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?		<b>No</b>
<b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?		<b>No</b>
<b>3. Any other factors that should be considered which could lead to environmental impacts</b>		
<b>3.1 Cumulative Effects:</b> Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?		<b>No</b>
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?		<b>No</b>
<b>3.3</b> Are there any other relevant considerations?		<b>No</b>
<b>C. CONCLUSION</b>		
<b>No real likelihood of significant effects on the environment.</b>	<input checked="" type="checkbox"/> <b>Agreed</b>	<input checked="" type="checkbox"/> <b>Yes</b>
<b>Real likelihood of significant effects on the environment.</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>D. MAIN REASONS AND CONSIDERATIONS</b>		

EIAR Not Required

## EIA – Screening Determination

Having regard to

- The parent permission granted under ABP-19.PA0032, which the subject alterations seek to amend,
- The modest nature and scale of the proposed alterations,
- The location of the proposed alterations, within the footprint of the permitted development and within an existing industrial site,
- The pattern of development in the surrounding area,
- The location of the development outside of any sensitive location specified in Article 109(4)(a)(v) of the Planning and Development Regulations 2001, as revised,
- The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as revised,

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

**Inspector** \_\_\_\_\_

**Date** \_\_\_\_\_

**Approved (DP/ADP)** \_\_\_\_\_

**Date** \_\_\_\_\_