



An
Bord
Pleanála

Inspector's Report ABP-319216-24

Development

10-year planning permission for the development of a wind farm with the construction of 5 wind turbines with max height of 185m, meteorological mast with a height of 114m, an electrical substation and all associated site works. The planning application will be accompanied by an Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS).

Location

Inchnamore, Milleeny, Derreenaling, Co. Cork

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

235145

Applicant(s)

Inchamore Wind Designated Activity Company

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)	Inchamore Wind Designated Activity Company
Observer(s)	None
Prescribed bodies	Transport Infrastructure Ireland Irish Aviation Authority Inland Fisheries Ireland Department of Defence HSE Environmental Health and Emergency
Date of Site Inspection	5 th December 2024
Inspector	Rachel Gleave O'Connor

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	6
3.1. Decision	6
3.5. Planning Authority Reports	7
3.6. Prescribed Bodies	17
3.7. Third Party Observations	18
4.0 Planning History	18
5.0 Legislation and Policy Context	19
5.1. European	19
5.2. National	20
5.3. Regional	23
5.4. Local	24
5.5. Natural Heritage Designations	27
6.0 The Appeal	28
6.1. Grounds of Appeal	28
6.2. Planning Authority Response	36
7.0 Assessment	36
8.0 Appropriate Assessment	46
9.0 Environmental Impact Assessment	63
10.0 Conclusion	86
11.0 Recommendation	87
12.0 Reasons and Considerations	87

1.0 Site Location and Description

- 1.1. The appeal site is situated in the townlands of Inchamore, Mileeny Derryreag and Derreenaling, Co. Cork. The site extends to approximately 170.1 ha (measurements vary in the submitted documents) and is largely comprised of low yielding commercial forestry land. There are also some areas of agricultural land and open mountain heath within the site. The site is situated to the south / west of the N22 national road and on the boundary for Counties Cork and Kerry, with the red line boundary for the current appeal entirely situated within Co. Cork. An associated first party appeal (ABP Reg. Ref. 317889-23) for an access road associated with the current appeal, was granted permission by the Board in February 2024 and was situated in Co. Kerry.
- 1.2. The location of the appeal site is rural in character, with the closest residential settlement at Inchamore some 750m to the south of the site boundary, and Mileeny approximately 1km to the south east. The nearest dwelling is located 753m from proposed turbine T2. The site is 54km west of Cork City and 23km north-east of Kenmare, Co. Kerry.
- 1.3. The site elevations range from 460m AOD in the north-western end, to 350m AOD to the eastern end of the site.
- 1.4. The site is partly in ownership by Coillte (approx. 73 ha), with the remainder in private third party ownership.

2.0 Proposed Development

- 2.1. The proposal comprises a 10-year planning permission for the following development:
 - A wind farm with an operational lifespan of 35 years;
 - The construction of five turbines with an overall ground to blade tip height ranging from 177m to 185m inclusive; a rotor diameter ranging from 149m to 155m inclusive; and a hub height ranging from 102.5m to 110.5m inclusive;

- Construction of permanent turbine hardstands and turbine foundations;
- Construction of one temporary construction compound with associated temporary site offices, parking areas and security fencing;
- Installation of a (35-year life cycle) meteorological mast with a height of 110m and a 4m lightning pole on top, such that the overall structure height will be 114m;
- Development of one on-site borrow pit;
- Construction of new permanent internal site access roads and upgrade of existing internal site access roads to include passing bays and all associated drainage infrastructure;
- Development of a permanent internal site drainage network and sediment control systems;
- Construction of a permanent 38kV electrical substation including a control building with welfare facilities, all associated electrical plant and equipment, parking, security fencing and gates, all associated underground cabling, wastewater holding tank, and all ancillary structures and works;
- All associated underground electrical and communications cabling connecting the wind turbines to the on-site wind farm substation;
- Ancillary forestry felling to facilitate construction of the Development;
- All associated site development works including berms, landscaping, and soil excavation.
- Upgrading of existing forest access roads to include passing bays and all associated infrastructure.
- Upgrade works on the Turbine Delivery Route to include the following:
 - Works at an entrance to an existing forest road accessed off the N22 to include localised widening of the forest road and creation of a splayed entrance, removal of existing vegetation for visibility splays and removals of street furniture to facilitate construction traffic including the delivery of abnormal loads and turbine component deliveries.

- 2.2. A 35 year operational lifespan for the proposed wind turbines and met mast (from the date of commissioning) is sought in reflection of the lifespan of modern-day turbines. A permanent permission is sought for the other elements proposed, including onsite substation which would become an asset of the national grid under management of ESB & EirGrid and remain part of the national grid network upon decommissioning of the wind farm.
- 2.3. Decommissioning would include the removal of the five wind turbines and above ground concrete plinths as proposed under the application, as well as the meteorological mast structure, all associated underground electrical and communications cabling connecting the wind turbines to the wind farm substation (ducting to remain in-situ).
- 2.4. The proposed development does not include a Grid Connection Route or turning area in Cummeenavrick, however these elements are assessed as part of the associated EIAR for the project as described below:
- All works associated with the permanent connection of the wind farm to the national electricity grid comprising a 38kV underground cable in permanent cable ducts from the proposed, permanent, on-site substation, in the townland of Inchamore and onto the townlands of Inchamore, Derreenaling, Derryreag, Cummeenavrick, Glashacormick, Clydaghroe and Cummeennabuddoge to the existing Ballyvouskill 220kV substation in the townland of Caherdowney.
 - The construction of a temporary access road off the N22 in the townland of Cummeenavrick to facilitate 180 degrees turning manoeuvre by construction vehicles and reinstatement at the end of the construction period.

3.0 Planning Authority Decision

3.1. Decision

- 3.2. Cork County Council as the Local Planning Authority decided to refuse permission on 9th February 2024 under application Reg. Ref. 24/4181 for the proposed development for two reasons, which are set out below:
- 3.3. Reason number 1:

It is considered that the facilitation of this proposal would result in the loss of Annex I Habitat and will lead to the further loss of existing high value peatland habitat.

Accordingly, having regard to submitted documents, it is considered that the proposed development would contravene materially development objective BE 15-2 of the Cork County Development Plan 2022 the aim of which is to protect and where possible enhance areas of local biodiversity value, ecological corridors and habitats that are features of the County's ecological network. This proposal would also contravene materially development objective ET 13-7 of the Cork County Development Plan which states 'commercial wind energy development is open to consideration in these areas where proposals can avoid adverse impacts on: Natura 2000 sites (SPA's and SAC's), Natural Heritage Areas (NHA's), proposed Natural Heritage Areas and other sites and locations of significant ecological value.'

3.4. Reason number 2:

A planning application in relation to the elements of the proposed development that are within the functional area of Kerry County Council, was refused by Kerry County Council (PI. Ref. 23/646) and is currently on appeal to An Bord Pleanála. This application included the upgrade of the site entrance off the N22 and permanent forest track upgrade works on which this proposal depends. It is therefore considered that the proposed development is premature until such time that the applicant can address existing deficiencies in the road network and entrance serving the proposed development in terms of safety and capacity.

3.5. Planning Authority Reports

3.5.1. Planning Reports

3.5.2. The main points of the primary Planner's report can be summarised as follows:

- No objection in principle to the proposal subject to normal proper planning and sustainable development considerations.
- The site is designated as 'Open to Consideration' within the Cork County Development Plan.
- It is considered that the socio-economic impacts of the proposed development will be beneficial.

- There is an abandoned house located to the west of the proposed substation on Coillte lands within the site, with is in the ownership of Coillte and will not be occupied for the lifetime of the Development.
- In relation to the potential for the proposed development to give rise to negative effects on high value habitats, the Ecology section have serious concerns in relation to the extent of habitats of high ecological value to be impacted by the construction of primarily Turbine T1 and to a lesser extent Turbines T2 and T3.
- The proposal results in the loss of 2.5ha of mosaic dry heath, wet heath, outcropping silicious rack and blanket bog (Annex I listed habitats), which has not been assessed as a significant adverse effect of permanent duration. The construction of Turbine T3 and associated roads will also result in the loss of 1.63ha of peatland habitat cutover bog. These habitats are considered to be of National importance (not County as set out by the applicant).
- Peatland habitat is under pressure and should be preserved. Note a nearby (4.95km to the south) SID application for 14 Turbines which would result in the loss of 28ha of Annex I listed habitats.
- Considered by the Ecology section that there is scope to relocate T2 and T3 to not encroach within peatland habitats, a deferral of the application is recommended.
- The location of T1 is contrary to objective BE 15-2 of the Development Plan.
- It is noted that the primary focus of the Natura Impact Statement is the potential implications arising from the grid connection route. While this is part of the overall proposal it does not form part of the planning application, but requires consideration as part of in combination effects. With respect to the Killarney National Park, Macgillicuddys Reeks and Caragh River Catchment SAC, note that there are a number of issue which require addressing with respect to implications of the grid connection, however as the subject site is in a different sub catchment and there is a lack of any hydrological linkage from the same, it is considered by the ecology section that significant in-combination effects can be rules out.

- It is considered that the NIS lacks sufficient detail to provide a robust scientific assessment to establish beyond reasonable scientific doubt that adverse effects on the Mullaghanish to Musheramore Mountains SPA will not occur.
- The ecological section has concerns that the proposal in combination with other driving factors of habitat loss / alteration in the area e.g. there are 27 wind farms within 20km of the site, will negatively impact the population of both breeding and wintering Hen Harrier. The NIS should be a standalone document and lacks an assessment of potential collision risk associated with the operation of the windfarm on avian species particularly Hen Harrier.
- A Kerry Slug Management Plan is required as the species is known to occur in conifer plantations.
- The submitted bat survey is detailed and precise, provided mitigation is provided as described, negative impact upon bat populations is not anticipated. With respect to potential loss of tree habitat, it is noted that the site is a commercial forestry site and therefore tree felling would occur regardless of the proposals.
- The ecology section consider that in relation to surface water and water quality, implementation of monitoring and mitigation measures procedures as described in the application will protect water quality.
- Further details of how brash is to be managed should be requested.
- The assessment provided in respect of Annex I species White-tailed Sea Eagle is insufficient, a deferral to allow submission of further information is requested in this regard.
- A noctmig (nocturnal migration / nocturnal flight call) survey is required to assess the potential barrier effect of the proposed development to avian species.
- The Environment Section are not satisfied with the details in relation to the submitted noise assessment and a deferral is recommended in this regard.
- No visual impact concerns raised.

- The County Archaeologist is satisfied with the proposal subject to proposed mitigation measures.
- Transport Infrastructure Ireland have concerns regarding the proposed access arrangements, which will subject to a separate application, conflict with the provisions of official policy and the objective to safeguard the safety of road users. The decision on that associated application by Kerry Co. Co. is pertinent to the current application in this regard.
- Further information requested with respect of the following points:

1. *“As per the Pre-Planning Advise issued by the Cork County Council Ecology Office, you shall submit a revised site design omitting / relocating windfarm infrastructure from intact peatland habitats, degraded peatland habitats or any habitats of high natural value. Particular emphasis is given to the removal of Turbine T1 from an area of Annex I habitat and the relocation of Turbines T2 and T3 and associated infrastructure as to not encroach within peatland habitats. As it stands, the Planning Authority is concerned with the significant negative effect the development will have on habitats of high ecological value which would be contrary to Objective BE 15-2 or with the Wind Energy Strategy as set out in Chapter 13 of the County Development Plan.*

Any revision to the layout of the proposed development will require an updated assessment in respect to peat stability to be submitted for review.

2. *The information provided is deemed insufficient as to allow the Planning Authority to complete Appropriate Assessment. Therefore, you shall submit a revised Natura Impact Statement which provides a more detailed assessment of the potential direct, indirect and cumulative / in-combination impacts the proposed windfarm may have on the Natura 2000 network, in particular on the Mullaghanish to Musheramore Mountains Special Protection Area (Site code: 004162). The revised NIS, which is a standalone document, shall contain full, precise definitive conclusion capable of removing all reasonable scientific doubt as to the effects of the works (population impacts from collision risk, impacts with other driving factors of habitat loss / alteration in the area such as that from*

afforestation and windfarm development (granted and under consideration etc.) on species of conservation interest of the SPA, namely Hen Harrier (Circus cyaneus).

- 3. The Planning Authority has concerns regarding the robustness of the assessment provided and the potential implications the operation of the proposal may have on the Annex I and red listed species of conservation concern White-tailed Eagle (Haliaeetus albicilla), given the information available to this office. You shall contact the Ecology Office in relation to same prior to submitting a revised assessment. Furthermore, you shall have regard [sic] in-combination impacts from similar proposals granted or under consideration in the area and to the response for a request for a scoping opinion from the Development Applications Unit of the NPWS regarding an assessment [sic] the locations of turbines with respect to valley and slope topography which increase the risk of collision with eagles gaining height on updrafts, based especially on published Norwegian data.*
- 4. The Planning Authority is not satisfied with the assessment provided in respect of the potential barrier effect on avian species given the proliferation of windfarm (constructed, consented or under review) in the wider area. Given that numerous avian species undertake nocturnal migration the potential for the proposed windfarm site to intersect migration / commuting routes cannot be fully discounted at this time. Therefore, as per the Pre-Planning Advise issued by Cork County Council Ecology Officer, you shall undertake a nocmig (Nocturnal Migration / Nocturnal flight call (NFC)) survey of the site (minimum survey period – autumn and winter into spring if possible) to help inform a robust assessment of any likely implications the proposed development may have of migratory birds.*
- 5. You shall clarify has to how brash generated as a result of clear-felling operations to facilitate the proposal, and that to be used a mitigation procedures i.e. brash mats will be managed [sic]. The Planning Authority is concerned that given the highly sensitive nature of the catchment, the improper management of brash could potentially result in eutrophication of*

aquatic systems and therefore cause a deterioration of the ecological health of watercourses.

6. *Given the known occurrence of Kerry Slug (*Geomalacus maculosus*) onsite, the Planning Authority is concerned with the potential for direct mortality of the species through clear-felling operations given the species recorded occurrence within similar conifer plantations in the wider area. Therefore, you shall submit a Kerry Slug Management Plan (KSMP) to identify, create and manage a suitable receiving environment for the long-term occurrence and trans-location, if required, of the Kerry Slug in the area affected by the proposed development and any future felling of the forestry.*
7. *a) You shall submit in tabular form the respective number and distances of all noise sensitive receptors within 500m, 1500m and 2000m of the turbines;*
b) The associated referenced noise sensitive receptors that each selected background noise monitoring location is considered and deemed to be representative of should be identified and quantified [sic].”

3.5.3. Other Technical Reports:

- Environment (Hydrology & Water Quality): No objections subject to condition.
- Environment (Noise and Air): Deferral recommended in relation to noise.
- Area Engineer: No objection subject to condition.
- County Archaeologist: No objection subject to condition.
- Ecology: A deferral is recommended.

3.5.4. The applicant responded to the request for further information on 6th December 2023 providing the following:

- Response to Request for Further Information report.

3.5.5. Subsequently, the Planner produced an additional Further Information Report assessing the further information (FI) provided, with main points summarised below:

- FI Item no.1:

- The response provided is not to the satisfaction of the Ecology Office as it has not addressed the items of concern raised. The assertion that the peatland / wetland habitats are unremarkable and of low ecological value is not sound, particularly as they are assessed to be of County importance in the submitted EIAR. The response argues that the impacted habitats are abundant in the area, however this does not take into consideration the likely serious pressures these sites / habitats are under from afforestation, drainage and / or agricultural practices, which is evident based on the applicants own supporting documents. Also note significant cumulative impact of habitat loss alongside the proposed Gortyrähilly Wind Farm SID for construction of 14 turbines, some 4.95km south of the proposed development, resulting in loss of 28ha of Annex I listed habitats (wet heath, dry heath, outcropping silicious rock and blanket bog). Ecology section advise that no wind energy development shall take place on intact peatland habitats, degraded peatland habitats or any habitats of high ecological value. To ensure the proposal remains fully compatible with Objective BE 15-2 or with the Wind Energy Strategy as set out in Chapter 13 of the County Development Plan, it is a recommendation of the Ecology Office to alter the proposal by way of condition for the omission of Turbine 1 and Turbine 3 from the proposal, and a slight redesign of the access track to Turbine 2 for agreement with the Planning Authority, so as not to encroach within habitats of high ecological value.
- Under Ireland's Draft Wind Energy Development Guidelines (2019) Planning Authorities should have full regard to biodiversity considerations in determining applications for wind energy developments. Furthermore, Annex I habitats that occur outside of SACs are still considered to be of national importance under Regulation 27(4)(b) of the European Communities (Birds and Natural Habitats) Regulations 2011-2015, which transpose into Irish law Directive 92/43/EEC (the Habitats Directive), states that 'Public authorities in the exercise of their functions insofar as the requirements of the Birds Directive and the Habitats Directive are relevant to those

functions, shall.... outside those areas, strive to avoid pollution or deterioration of habitats.' Cork County Council policy is to protect and where possible enhance areas of local biodiversity value including peatland and other wetland habitats. Note that the habitats of concern maybe fragmented, however they occur over a continuous band within the northwestern and western section of the site, as part of a continuous peatland structure. Note that the Red-listed Annex I species Golden plover relies on the site and the collision risk posed by the proposal to this species, which is experiencing worrying national trends of decline. While noting the importance of renewable wind energy generation, the facilitation of two turbines in particular at this site, will lead to the further loss of existing high value peatland habitat, including Annex I habitat types, which based on the provided information are already under pressure from agriculture and afforestation. This will have further repercussions on associated species. Therefore, it is recommended that the proposal omits two turbines to help ensure the proposal complies with the policies and objectives of the County Development Plan and ensure preservation of habitats of special conservation significance in Cork.

- The facilitation of turbines 1 and 3 will directly impact on Annex I habitats (wet heath and blanket bog), which are listed as 'habitats of special conservation significance' in Cork as per Volume 2 of the County Development Plan. Therefore, the development of infrastructure within these habitats directly contravenes Objective BE150-2 which aims to 'Protect and where possible enhance areas of local biodiversity value, ecological corridors and habitats of special conservation significance in Cork as listed in Volume 2 of the plan.' As such it is recommended these turbines are omitted.
- FI Item no.2:
 - While it is considered that aspects of the response lack expert knowledge as to the ecology of Hen Harrier, particularly in relation to foraging, the Ecology Office are satisfied that the potential for significant adverse effects on the conservation objectives for the

species within the SPA can be ruled out based on the overall information provided in the planning pack and the omission of Turbine from ex-situ Hen Harrier foraging habitat i.e. heath and bog. However, the inference that the site is very limited in terms of prey availability is not borne out in survey evidence, no dedicated small mammal trapping undertaken. It is the opinion of the Ecology Office, that given the recorded utilization of the site by the species, even if irregular, it adds conservation weight to the preservation of the peatland habitats at this site which are used by this species for foraging.

- FI Item no.3:
 - The response provided is not to the satisfaction of the Ecology Office. The office is aware of at least 4 confirmed White-tailed Eagle deaths at windfarms over approximately the last decade along the Cork/Kerry border with a young male killed in October of 2022 at a windfarm c.5km north of the proposal site. More recently a White-tailed Eagle was killed last year at a windfarm in Kerry. There is a known regular White-tailed Eagle roost approximately 6km from the proposed windfarm site. This could indicate a potential higher level of usage of the area by the species and given the extremely low numbers of the species nationally each death is considered significant negative impact to the national population. While the level of concern by the Ecology section is not significant enough to warrant the recommendation of a refusal of this application on the basis of the potential implications it could have on this species population in the county and beyond, it is the opinion of the ecology section that mitigation is required e.g. temporary shutdown of turbines during recorded periods of increased usage by species of conservation significance, will be subject to ongoing robust monitoring and not to extent as listed in the EIAR i.e. VP surveys in Years 1, 2, 3, 5, 10 and 15 and Collision searches / carcass searches in Years 1, 2, 3, & 5 of the operational phase of the wind farm.
- FI Item no.4:

- The response has not fully addressed the requests of the Ecology Office. The Ecology Section recommends the omission of certain turbines by way of condition and the imposition of a separate condition of planning which will include for the inclusion of nocturnal migration surveys as part of the post-construction ornithological monitoring should permission be granted.
- FI Item no.5:
 - The response is deemed satisfactory.
- FI Item no.6:
 - The response is deemed satisfactory. A condition ensuring the implementation of the submitted Kerry Slug Management Plan should be attached to any grant of planning permission.
- FI Item no.7:
 - Environment are satisfied with the response.

3.5.6. Conclusion: While Cork County Council is supportive of renewable energy projects, the construction of Turbine 1, Turbine 3 and the access track to Turbine 2 will result in the loss of Annex I peatland habitats which are of high ecological value and which the protection of same is supported by County Development Plan policy. With reference to the application timeline, there is no time left to clarify the points of further information received in relation to the omission and relocation of windfarm infrastructure and in relation to the impact of the proposal on species of conservation interest. In the absence of an authorised access to serve the site which was refused by Kerry County Council (Pl. Ref. 2/646) and is currently on appeal to An Bord Pleanála (Case Ref. PL08.317889), there is no option but to recommend a refusal on the project. Also recommending that a refusal reason is included in relation to the loss of Annex I habitats given that further information response received did not address the issue satisfactorily.

3.5.7. Other Technical Reports (Initial responses are reflected in the above primary planner report summary.) Following submission of further information:

- Environment: No objections subject to condition.

- Area Engineer: No objection subject to condition.
- County Archaeologist: No objection subject to condition.
- Ecology: A deferral is recommended.
- O'Callaghan Moran External Consultants (peat stability): No objections raised.

3.6. Prescribed Bodies

- Transport Infrastructure Ireland: Concerns raised that the proposal relies on access proposals that conflict with the provisions of official policy and the objective to safeguard the safety of all road users.
- Irish Aviation Authority (IAA): The applicant should be required to engage with Kerry Airport to undertake an aeronautical safety assessment, and recommend condition requiring the applicant to engage with the IAA with respect to requirements (i.e. the inclusion of obstacle warning lights, notification regarding use of cranes and providing size specifications for the turbines).
- Inland Fisheries Ireland: A grant of permission recommended subject to conditions ensuring protection of water quality.
- Department of Defence: Recommendations with respect to technical specifications regarding turbine illumination, obstacle lighting and light intensity.
- HSE Environmental Health and Emergency: Recommend use of a feedback mechanism for the local community such as a Community Liaison Officer; adoption of the 'blade shadow control system on the proposed turbines'; application of a CEMP and monitoring of soil stability; application of mitigation measures under the EIAR; look for opportunities to support health and well-being by allowing access to people to green spaces; and application of the Adaption lens in the context of climate change in order to build a resilience to climate related hazards, the development should aim to utilise zero emissions or low emissions plant. Recommend construction working hours are limited to weekdays and Saturdays, with the exception of large transport loads and that the risk of fire is adequately addressed with mitigation measures put in place.

3.7. Third Party Observations

- None received.

4.0 Planning History

- 4.1. Reg. Ref. 215127: Planning Permission Granted on 31/08/2021 to Coillte CGA for the erection of a temporary 100m high lattice type meteorological mast for a period of 5 years.
- 4.2. Reg. Ref. 126100: Application withdrawn by SSE Renewables Ireland Ltd for the Erection of an 80m temporary Meteorological Mast and associated guy wires.
- 4.3. Associated Application: Planning Authority Reg. Ref. 23646 / ABP Reg. Ref. 317889-23 situated within Co. Kerry, for: Upgrade of 0.8km existing forest access roads to include passing bays and all associated drainage infrastructure; Works at the entrance of an existing forest road accessed off the N22 to include localised widening of the forest road and creating of a splayed entrance, removal of existing vegetation for visibility splays and removal of street furniture. Permission refused by Kerry County Council for two reasons, regarding traffic hazards and potential adverse water quality impacts. Permission APPROVED by An Bord Pleanála on appeal in February 2024.
- 4.4. Surrounding sites:
- 4.5. ABP ref. 317406-23 / PA reg. ref. 22/816: Planning permission GRANTED on 23rd January 2024 on appeal to An Bord Pleanála, concerning planning permission at townlands of Cummeenavrick, Glashacormick, Clydaghroe, Cummeennabuddoge to the north east of the site, REFUSED by Kerry County Council for grid connection cabling and associated works – as follows: i) underground electrical cabling (33kv), (ii) upgrade of access junctions; (iii) access roads (new and upgrade of existing); (iv) temporary access road; (v) borrow pit; (vi) site drainage; (vii) forestry felling; and (viii) all associated site development ancillary works and apparatus. The development subject to this application forms part of grid connection and access arrangements which will facilitate the permitted Knocknamork renewable energy development, Cork County Council ref. No. 19/4972. Concurrent planning applications in relation to the overall grid connection and access arrangements will also be lodged to Cork County

Council and An Bord Pleanála. An operational period and extended planning permission duration to align with the permitted Knocknamork renewable energy development, Cork County Council ref. No. 19/4972 is sought.

- 4.6. ABP ref. 314602-22 – Further Information Request issued by An Bord Pleanála on 20th July 2023 related to SIDs application in the townlands of Cahernacaha, Gortnabinna, Derryfineen, Gortyrhilly, Rath West, Derree, Fuhiry, Derreenaculling and other townlands, Co. Cork and Derryreag, Cummeenavrick, Glashacormick, Clydaghroe and Cummeennabuddoge, Co. Kerry for a wind farm development of 14 turbines with 110kV electrical substation and all related site works and ancillary development. Includes the construction of a temporary access road off the N22 in the townland of Cummeenavrick to facilitate a 180 degrees turning manoeuvre by the turbine delivery vehicles.
- 4.7. ABP ref. 312606-22 – SIDs Application, Planning Permission GRANTED by An Bord Pleanála on 19th November 2024 for a windfarm development of 20no. turbines with 110kV electrical substation and all related site works and ancillary development. The number of turbines was reduced to 16no. by way of condition, with the omission of turbines T2, T3, T13 and T17 together with their associated hardstands and access tracks.
- 4.8. ABP ref. 319741-24 – Current application before An Bord Pleanála for a proposed windfarm repowering application of the existing Kilgarvan Wind Farm.

5.0 Legislation and Policy Context

5.1. European

5.1.1. Renewable Energy Directive (2009/28/EC [REDII])

- 5.1.2. This Directive requires a commitment to produce energy from renewable sources and it set binding targets on the share of renewable energy in energy consumption and in the transport sector to be met by 2020. It aimed to make renewable energy sources account for 20% of EU energy by 2020. Ireland had a national target of 16%. The government decided that 40% of electricity consumed in 2020 would be generated by renewables sources. Members States must submit National Renewable Energy Action Plans and Progress Plans to the EC.

5.1.3. Recast Renewable Energy Directive (Revision 2018/2001 [REDII])

5.1.4. This Directive established a new binding renewable energy target for the EU for 2030 of at least 32%, with a clause for a possible upwards revision by 2023. This target is a continuation of the 20% target for 2020. In order to help EU countries deliver on this target, the directive introduced new measures for various sectors of the economy, particularly on heating and cooling and transport, where progress has been slower (for example, an increased 14% target for the share of renewable fuels in transport by 2030).

5.1.5. Amended Renewable Energy Directive (RED III)

5.1.6. On 9 October 2023, the EU Council adopted the amended Renewable Energy Directive (RED III), part of the "Fit for 55" package. It was published in the Official Journal of the European Union on October 31, and entered into force 20 days after that date. The RED III aims to increase the share of renewable energy in the EU's overall energy consumption to 42.5% by 2030, with a further indicative target of 2.5%. The Directive also introduces specific targets for Member States in the industry, transport, and building (district heating and cooling) sectors. Some provisions in RED III have a transposition date of 1 July 2024, with other provisions having a transposition date of 18 months after entry into force of the Directive.

5.1.7. Energy Roadmap 2050

5.1.8. This 2011 Roadmap deals with the transition of the energy system in ways that would be compatible with the greenhouse gas reductions targets set out in the REDI.

5.1.9. REPowerEU May 2022

5.1.10. In response to the hardships and global energy market disruption caused by Russia's invasion of Ukraine, the European Commission is implementing its REPowerEU Plan to help the EU save energy, produce clean energy and diversify its energy supplies.

5.2. **National**

5.2.1. The National Planning Framework – Project Ireland 2040

5.2.2. The National Planning Framework 2018-2040 (NPF) sets ten strategic outcomes. Strategic Outcome 8 is the Transition to a Low Carbon and Climate resilient society.

The NPF states that the future planning and development of our communities at local level will be refocused to tackle Ireland's higher than average carbon-intensity per capita and enable a national transition to a competitive, low carbon, climate resilient and environmentally sustainable economy by 2050 through harnessing our country's prodigious renewable energy potential (pg.12). Chapter 9 'Environmental and Sustainability Goals' addresses renewable energy.

- 5.2.3. National Policy Objective 55 seeks to "Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050."
- 5.2.4. The Climate Action and Low Carbon Development (Amendment) Act 2021
- 5.2.5. The Climate Action and Low Carbon Development (Amendment) Act 2021 (Climate Act, 2021), commits Ireland to a legally binding 51% reduction in overall greenhouse gas emissions by 2030 and to achieving net zero emissions by 2050. Under section 17 'Amendment of section 15 of the Principal Act' the Board as a relevant body shall, in so far as practicable, perform its functions in a manner that is consistent with the most recent approved climate action plan, most recent approved national long term climate action strategy, national adaptation framework, sectoral plans, furtherance of the national climate objective and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.
- 5.2.6. Climate Action Plan 2024
- 5.2.7. As part of its functions, the Board must, in so far as practicable, perform its functions in a manner that is consistent with the most recent approved climate action plan, most recent approved national long term climate action strategy, national adaptation framework, sectoral plans, furtherance of national climate objective and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State [section 15(1) of the Climate Action and Low Carbon Development Act 2015 (as amended)].
- 5.2.8. National Peatlands Strategy, 2015
- 5.2.9. This document sets out a national strategy for the sustainable management of peatlands and Section 5.3 deals with Peatlands and Climate Change. It describes the role of natural undrained peatlands as carbon stores, and it references the EPA

report 'Carbon Reserve -The Potential of Restored Irish Peatlands for Carbon Uptake and Storage 2007-2013' in terms of how peatland management might be used to enhance carbon sequestration and reduce emissions. It provides advice in relation to the management of non-designated peatlands to halt carbon loss and recommends restoration measures to stabilise eroding surfaces, re-establish peatland vegetation and encourage waterlogged conditions to enable peat formation.

5.2.10. Wind Energy Development Guidelines (2006)

5.2.11. The Guidelines advise that a reasonable balance must be achieved between meeting Government Policy on renewable energy and the proper planning and sustainable development of an area, and it provides advice in relation to the information that should be submitted with planning applications. The impacts on residential amenity, the environment, nature conservation, birds and the landscape should be addressed. It states that particular landscapes of very high sensitivity may not be appropriate for wind energy development.

5.2.12. Draft Wind Energy Development Guidelines 2019

5.2.13. In December 2013, the Minister for Housing and Planning announced a public consultation process with respect to a focused review of the 2006 Guidelines and a 'preferred draft approach' to the review was announced in June 2017. Consultation on the draft Guidelines ended in February 2020. The draft guidelines identify Specific Planning Policy Requirements (SPPR), and subject to formal adoption of the Guidelines, it is intended that these SPPRs would be applied by planning authorities and An Bord Pleanála in the performance of their functions, as well as having regard to additional matters for consideration in assessing wind energy developments.

5.2.14. National Landscape Strategy for Ireland, 2015-2025

5.2.15. This document seeks to integrate landscape into our approach to sustainable development, carry out an evidence-based identification and description of landscape character, provide for an integrated policy framework to protect and manage the landscape and to avoid conflicting policy objectives.

5.2.16. Water Action Plan 2024: A River Basin Management Plan for Ireland

5.2.17. The Plan responds to the requirements of the Water Framework Directive, to accelerate the identification and implementation of the right measures in the right

places to both restore and protect all water bodies. The catchments.ie website provides substantial background information for this plan and the most current and up-to-date information on the status of local rivers, lakes and water bodies.

5.2.18. Ireland's 4th National Biodiversity Action Plan 2023-2030 (NBAP)

5.2.19. The NBAP includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss. Section 59B(1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Board, as a public body, to have regard to the objectives and targets of the NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Board. The impact of development on biodiversity, including species and habitats, can be assessed at a European, National and Local level and is taken into account in our decision-making having regard to the Habitats and Birds Directives, Environmental Impact Assessment Directive, Water Framework Directive and Marine Strategy Framework Directive, and other relevant legislation, strategy and policy where applicable.

5.2.20. The plans 5 objectives are as follows: 1. Adopt a whole-of-government, whole-of-society approach to biodiversity; 2. Meet urgent conservation and restoration needs; 3. Secure nature's contribution to people; 4. Enhance the evidence base for action on biodiversity; and 5. Strengthen Ireland's contribution to international biodiversity initiatives.

5.3. **Regional**

5.3.1. Regional Spatial & Economic Strategy (RSES) for the Southern Region

5.3.2. The RSES provides the framework through which the NPF's vision and related Government policies and objectives will be delivered for the Region. It sets out a strategic profile and vision for the region. The RSES outlines Regional Policy Objectives (RPOs), including the following of note; RPO 95 identifies the objective of implementation of the national renewable energy action plan as well as leveraging the region as a lead and innovator in sustainable energy generation. RPO 96 states it is an objective to support the sustainable development, maintenance and upgrading of the electricity grid infrastructure and to integrate renewable energy sources. RPO 99 states it is an objective to support the sustainable development of

wind energy at appropriate locations. RPO 219 also states that it is an objective to support the provision of new energy infrastructure subject to suitable environmental assessments and the planning process to ensure the energy needs of the future population and economic expansion are met in a sustainable manner.

5.4. Local

5.4.1. Cork County Council Climate Adaptation Strategy 2019-2024

5.4.2. This strategy sets out the council's strategic priorities, measures, and responses for climate adaptation over a five-year period.

5.4.3. Cork County Development Plan 2022-2028

5.4.4. This sets out the local planning policy framework for the area in which the subject site is located. Relevant designations, objectives and policies are summarised below (note this is not an exhaustive list and the Plan should be read as a whole):

5.4.5. The site is designated as 'Open to consideration' under the wind strategy map for the County Development Plan.

5.4.6. Objective 13-1 Energy – Ensure that County Cork fulfils its potential in contributing to the sustainable delivery of diverse and secure energy supply and meet renewable energy targets.

5.4.7. Objective 13-2 Renewable Energy – Support Ireland's renewable energy commitments, support and facilitate renewable energy proposals that bring socio-economic benefit to the local community, support the development of new and emerging renewable energy technologies and promote the potential of micro renewables.

5.4.8. Wind Energy is addressed from section 13.6 of the Plan.

5.4.9. Objective ET 13-4: Wind Energy – states that in order to ensure consistency with national targets on renewable energy and climate change mitigation, the Council will support further development of on-shore wind energy projects at appropriate locations in line with the Wind Energy Strategy and objectives under the plan.

5.4.10. The Wind Energy Strategy is referenced at section 13.6.3 of the Plan. The Strategy identifies three categories of 'Wind Development Area' for large scale wind energy

developments – Acceptable in Principle, Open to Consideration and Normally Discouraged. Refer to Figure 13.2 Policy Considerations for Wind Energy Projects and Figure 13.3 Wind Energy Strategy Map under the Plan.

5.4.11. Objective ET 13-5: Wind Energy Projects – Support a plan led approach to wind energy development. The aim of identifying areas for wind energy development is to ensure that there are minimal environmental constraints. On-shore wind energy projects should focus on areas considered ‘Acceptable in Principle’ and ‘Areas Open to Consideration’, and avoid ‘Normally Discouraged’ areas.

5.4.12. Objective ET 13-6: Acceptable in Principle – Commercial wind energy development is normally encouraged in these areas subject to protection of residential amenity particularly in respect of noise, shadow flicker, visual impact and the requirements of the Habitats, Birds, Water Framework, Floods and EIA Directives and taking account of protected species of conservation concern.

5.4.13. Section 13.6.7 Open to Consideration: This area comprises almost 50% of the County area. Within these areas there are locations that may have potential for wind farm developments but there are also some environmental issues to be considered... Any proposals within Freshwater Pearl Mussel Sub Basin Catchments or in other sensitive catchments must be able to demonstrate that they have been designed in a manner which prevents any risk of peat slippage or erosion; and ensures the ongoing protection of water quality and the maintenance of natural hydrological processes.

5.4.14. Objective ET 13-7: Open to Consideration – Commercial wind energy development is open to consideration in these areas where proposals can avoid adverse impacts on:

- Residential amenity particularly in respect of noise, shadow flicker and visual impact;
- Urban areas and Metropolitan / Town Green Belts;
- Natura 2000 Sites (SPA's and SAC's), Natural Heritage Areas (NHA's), proposed Natural Heritage Areas and other sites and locations of significant ecological value.
- Architectural and archaeological heritage;

- Visual quality of the landscape and the degree to which impacts are highly visible over wider areas.

Consideration to be given to cumulative impacts.

- 5.4.15. Objective ET 13-8: Normally Discouraged – Commercial wind energy development will be discouraged in these areas which are considered to be sensitive to adverse impacts associated with this form of development.
- 5.4.16. Objective ET 13-9: National Wind Energy Guidelines – Development to be designed and developed in line with the same.
- 5.4.17. Objective ET 13-10: Development in line with Best Practice – Ensure that wind energy developments in the County are undertaken in accordance with best practices.
- 5.4.18. Green Infrastructure is addressed in Chapter 14 of the Plan.
- 5.4.19. Objective GI 14-9: Landscape – Protect the visual and scenic amenities of County Cork's built and natural environment, protect skylines, discourage extensive removal of trees.
- 5.4.20. Objective GI 14-13: Scenic Routes – Protect the character of those views and prospects obtainable from scenic routes.
- 5.4.21. Objective GI 14-14: Development on Scenic Routes – Demonstrate no adverse obstruction or degradation of views in areas with scenic routes.
- 5.4.22. The site is not situated in an area recognised as a 'High Value Landscape' as detailed under the Development Plan.
- 5.4.23. Chapter 15 addresses Biodiversity and Environment.
- 5.4.24. Objective BE 15-1: Support and comply with national biodiversity protection policies.
- 5.4.25. Objective BE 15-2: Protect sites, habitats and species – Protect all designated sites or sites proposed for designation; provide protection to listed species; protect and where possible enhance areas of local biodiversity value, ecological corridors and habitats that are features of the County's ecological network... including... peatland and other wetland habitat....
- 5.4.26. Objective BE 15-6: Biodiversity and New Development – Protect and enhance biodiversity by... ensuring an appropriate level of assessment in relation to wetland

habitats subject to proposals which would involve drainage or reclamation. This includes... peatlands...

5.5. Natural Heritage Designations

5.5.1. The site of the proposed development does not overlap with any natural heritage designations. The following Special Protection Areas (SPA) and Special Conservation Areas (SAC) are most proximate to the site (and/or proposed turbine delivery route) with approximate distance to the site indicated in brackets:

- Killarney National Park, Macgillicuddy's Reeks & Caragh River Catchment SAC (000365) (the site at Inchamore is approximately 1.4km south of the Caragh River component of the SAC);
- Mullaghanish Bog SAC (001890) (the site is approximately 6.9km south-southwest of the SAC);
- St Gobnet's Wood SAC (000106) (the site is approximately 5km west-northwest of the SAC);
- Blackwater River (Cork/Waterford) (002170) (the site is approximately 11km southwest of the SAC);
- Glanlough Woods SAC (002315) (the site is approximately 14km northeast of the SAC);
- Kilgarvan Ice House SAC (000364) (the site is approximately 10km northeast of the SAC);
- Old Domestic Building, Curraglass Wood SAC (002041) (the site is approximately 8.1km east of the SAC);
- The Gearagh SAC (000108) (the site is located approximately 16.8km northwest of the SAC);
- Great Island Channel SAC (001058) (the site is located approximately 62.2km west of the SAC);
- Mullaghanish to Musheramore Mountains SPA (004162) (the site of the proposed wind farm at Inchamore is approximately 6km west of the SPA);

- Killarney National Park SPA (004038) (the site is approximately 14.5km east of the SPA);
- The Gearagh SPA (0004109) (the site is approximately 16.8km northwest of the SPA);
- Cork Harbour SPA (0004040) (closest point along the Turbine Delivery Route is approximately 14m from the SPA);

5.5.2. An Appropriate Assessment of the proposed development has been carried out in Section 8 of this report below in relation to potential impacts on designated European sites.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first-party appeal of the Planning Authority's decision to refuse planning permission has been submitted.

6.1.2. The first three sections of the submitted appeal report set out the background to the proposed development, developer details, background to the planning appeal and policy context. Section 4 sets out the grounds of appeal and section 5 provides a conclusion. The principal grounds of appeal are presented as responses to the reasons for refusal and are summarised below:

6.1.3. Refusal Reason No.1

- The development will not result in negative impacts on Annex I habitats or existing high value peatland. The development will enhance peatlands through habitat restoration both onsite and within the adjacent habitat management area, which is subject to an executed legal agreement between the Inchamore Wind DAC and the landowner. A significant positive net gain of 12ha of high value peatland habitats will be protected and enhanced by the development.
- Reference to the detailed habitat conditions assessment submitted in response to the Council's request for further information.

- The proportions of affected annex I habitats and totals within the red line boundary are set out in Table 4.1 of the submitted report as copied below:

Table 4.1: Areas and proportions of Annex I habitats within infrastructure footprint (i.e. within which all site works will occur) and red line boundary.

Annex I habitat	Area in footprint of proposed infrastructure (ha)	Area in red line boundary (ha)	Proportion inside footprint	Proportion outside footprint	Condition of habitat within the footprint of the proposed infrastructure
H4010 Wet heaths	1.71	13.59	12.6%	87.4%	Unfavourable Inadequate
H7130 Blanket bog (non-priority)	1.34	10.54	12.7%	87.3%	Unfavourable Bad
H7130* Blanket bog (priority Annex I habitat)	0.36	11.86	3.0%	97.0%	Favourable

* indicates priority Annex I habitat. (Site re-surveyed in July 2023).

- Of the five proposed turbines, only T1 and T3 are located in open moorland where wet heath and blanket bog are recorded. Turbine T2 is located within WD4 Conifer Plantation and all other parts of the site are in coniferous forestry plantation dominated by Sitka spruce.

- The assessment of Annex I habitat did not place a singular focus on location outside a special area of conservation as the sole defining factor of ecological value. Condition and value was determined using Perrin et al. (2014) methodology. It should be noted that while habitats may meet some, or all, of the criteria for classification under the Annex I system, it does not automatically indicate that they all meet the definition / classification under Annex I and are all of the same extent and quality.
- The results of the habitat condition assessment determined that all the H4010 wet heath is in unfavourable inadequate condition, largely as a result of an insufficiency of positive indicator species and over-abundance of purple moor-grass *Molinia caerulea*. Over grazing appears to be a key issue.
- The H7130* Blanket bog (priority habitat) present within Inchamore Wind Farm site is in Favourable condition, while the H7130 Blanket bog (non-priority habitat) present is in Unfavourable Bad condition. These occupy about half the blanket bog resource in the site respectively. H7130 is in exceptionally poor condition in the vicinity of proposed turbine T3 where remaining peat 'islands' are subject to drying and in the intervening ground much of the peat has been removed down to bedrock.
- Figure 1, Appendix C of the submitted report comprises a map of Annex I habitats superimposed with the proposed infrastructure footprint.
 - The hardstanding for T3 and short stretches of the southward access tracks overlap with Annex I habitat comprised of badly degraded H7130 Blanket bog and a small amount of peripheral H7130* Blanket bog as the track heads westwards.
 - The hardstanding for T1 and connecting access track overlap with Annex I habitat H4010 wet heath, and a small amount of H7130* Blanket bog.
 - Approx. 30m of access track connecting to the hardstanding of T2 overlaps with Annex I habitat comprising a small amount of H4010 wet heath. The hardstanding for the proposed turbine T2 is located within WD4 conifer plantation, not an Annex I habitat.

- The area of H4010 wet heath habitat to be lost in the vicinity of T1 is 1.71ha and is in unfavourable inadequate condition (with unfavourable low species diversity) which reduces its ecological value. It is a common habitat in the area. There is no SAC in the area and it is not a QI. H4010 is not a priority Annex I habitat. In view of the lower quality of the H4010 habitat, its unremarkable nature, its frequency in the uplands area and the small amount to be affected, the loss of H4010 wet heath as a result of the proposed wind farm cannot be considered significant even at a local level.
- The area of H7130 Blanket bog (non-priority) habitat to be lost is 1.34ha in the vicinity of T3 and is in very poor condition, with islands of standing peat that are subject to drying. Peat-forming bog mosses and hare's tail cottongrass are practically absent. The larger islands of remaining peat are at the northern end of this H7130 some distance from the development footprint and unaffected by the development. It is not a QI and is not a priority Annex I habitat, there is no SAC designated in the area for H7130. In view of the very low quality of the existing H7130 blanket bog, the frequency of unaffected blanket bog (of better quality) in the red-line boundary and nearby area, the small amount affected, the loss of severely degraded H7130 blanket bog as a result of the proposed wind farm cannot be considered significant even at a local level.
- The area of H7130* priority blanket bog to be lost in the vicinity of T1 is 0.36ha as a result of the hardstanding area to the turbine. The affected H7130* mainly comprises part of a small outlying patch of bog on flatter ground amongst wet heath at T1. It is narrowly connected to the more extensive intact H7130* blanket bog to the east, outside of the development footprint. Aerial photography indicates that further bog, likely including H7130* occurs commonly outside the red line boundary. The H7130* at Inchamore is not a QI. Although priority Annex I habitat, it is abundant and largely unaffected by the Development. No SAC was designated in the area for H7130* no doubt because the H7130* is part of a wider blanket bog extent, half of which is severely degraded, and neither the total bog extent nor the structure and composition are sufficiently notable to warrant SAC designation. Given the minor extent of H7130* to be lost, the retention of 97% of the H7130* within

the red line boundary, the common presence of blanket bog in the surrounding uplands, and that blanket bog at Inchamore is not of SAC quality or extent, the very small loss of H7130* to the proposed wind farm is not considered significant beyond the local vicinity.

- The loss of habitat should be considered against the 12ha of net gain of Annex I habitats and high value peatlands habitats both in favourable and unfavourable condition that the development will deliver (discussed below).
- The development is located in an area deemed 'Open to Consideration' for onshore commercial wind development and in compliance with County Development Plan Objectives BE 15-2 and 13-7, will not result in significant adverse effects on ecological sites or habitats of European, national or location importance.
- The development will not result in significant cumulative effect on Annex I habitats or peatlands of high ecological value. Note that Gortyrachilly Wind DAC submitted further information to An Bord Pleanála on 29th September 2023 in relation to application ref.ABP314602-22 which included the results of an Annex I habitat condition survey report completed in July 2023. The survey report refined habitat mapping in the vicinity of the proposed wind farm footprint and most notably recorded that the area of H4010 wet heath that will be lost due to the proposed wind farm development is 17.85ha, significantly lower than the 28ha stated by the County ecologist. The reasons for this lower figure are as reported in the RFI response as follows:
 - Recent conversion of wet heath (and bog) to agricultural pasture beside proposed turbine T9 and to small extent elsewhere (such as near proposed turbine T8);
 - The refinement of habitat mapping to better detail and delineate areas of non-Annex I habitat (primarily acid/marshy grassland, but also including mapping of existing access tracks) amongst wet heath; and
 - The occurrence in several areas of wet heath as a mosaic component (sometimes a very minor one) in habitat mosaics that include non-Annex I habitats (again, primarily acid/marshy grassland).

- The Gortyrhilly habitat survey and condition assessment also confirmed that the wet heath within the development site is variable in quality, many areas not in good condition and that Gortyrhilly development includes a 9.5ha habitat enhancement plan to enhance and protect areas of blanket bog (annex I habitat) and areas of wet heath, dry heath and siliceous rock (annex I habitats).
- Habitat restoration opportunities have been identified onsite to offset minor potential habitat loss. Opportunities primarily involve the permanent felling of trees around turbines in forestry which will provide 5ha of H4010 open habitat, which is likely, at least in the vicinity of T2 where there is existing wet heath, to develop into H4010 wet heath, constituting a significant net gain in habitat area. This is seen as restoration as the forestry at T2 was probably planted on H4010. With respect to H7130 blanket bog, burning will not be permitted within the constructed wind farm. The main way that H7130 will benefit is by using the relatively small amount of peat to be removed during construction to infill some of the gaps amongst the remaining peat islands or expanding their edges, particularly in the northern part of the relevant H7130 (north of T3) where there is more remaining standing peat. The developer has also executed a legal agreement with the owner of 10.8ha of peatland bog habitats located directly west of the wind farm site which form the habitat enhancement plan area described in the EIAR appendix 5.5 and has legal standing to be implemented in accordance with Objective BE 15-2.
- Reference to ABP planning appeal assessment under ref.317889-23 relating to the access road for the proposed wind farm project, and the Planning Inspectors assessment of the wind farm project as a whole, in agreement with the conclusions set out in the EIAR, and that the 'significant effect to wet heath and blanket bog habitat will also be adequately compensated through implementation of a Habitat Enhancement Plan for the project.'
- With respect to the rational set out by the County Ecologist for omitting T1 and T3, it is submitted that this attempts to establish an impractical standard of development restriction on peatland of all types of condition and protection status which is inconsistent with accepted conservation practice. Volume 2 of

the Development Plan lists habitats of special conservation significance in Cork. Listed habitats, which have Annex I equivalents and are located within or adjacent to the Development footprint include wet heath and blanket bog as discussed above.

- The statement by the County ecologist that development on peatland habitats and degraded peatland habitats regardless of their ecological value, condition or legal protection should be restricted is not adopted elsewhere. Appendix 4 of both the June 2006 and Draft 2019 Planning Guidelines for Wind Energy Development do not preclude wind energy proposals in peatland areas, rather they outline construction guidelines to reduce impacts. Also note that other local authorities do not preclude wind energy outright on peatlands, with reference to Offaly CC.
- The Habitats Directive does not afford Annex I habitat strict protection, this is reserved for Annex IV species. The system for protecting Annex I habitat is the identification and designation of SAC's in a balanced way to achieve the conservation of these habitats in a balanced way having regard to wider 'economic, social and cultural requirements.' Highlight that the proposed wind farm site remains designated as an area where wind energy is open to consideration on the Cork CC Wind Strategy map, so the request to remove a number of turbines due to their location is not in accordance with the Policies and Objectives of the Development Plan.
- Ireland's climate commitments are affirmed in the Climate Action and Low Carbon Development (Amendment) Act 2021 which commits Ireland to reach a legally binding target of net-zero emissions no later than 2050, and a cut of 51% by 2030 (compared to 2018 levels). To enable this, the Government has put in place a Climate Action Plan (CAP). The current CAP 2023 and upcoming CAP 2024 highlight the central role electrification will lay in the decarbonisation of other sectors including transport, heating, and industry, sets an ambitious 80% target for electricity production from renewable sources by 2030 and identifies the need to remove barriers to the development of renewables, including onshore wind. In the circumstances of

the subject site, it is appropriate and consistent with Government and EU policy to grant permission for the development.

6.1.4. Refusal Reason No.2

- The decision by Cork County Council to refuse planning permission with respect to reason no.2 is no longer applicable.
- The decision ABP-317889-23 dated 15th February 2024 was to Grant permission. An Bord Pleanála were satisfied from the information submitted with the application and appeal that there would not be adverse impact upon the carrying capacity of the N22 arising from use of the existing access from/onto the N22 during construction or operation (or decommissioning) of the wind farm project.

6.1.5. Other Matters

6.1.6. With reference to other matters noted in the Planner's report, that did not form reasons for refusal but contain statements / criticisms:

- With respect to White Tailed Eagle, there is no evidence from the bird surveys carried out for the Project that white-tailed eagles are attracted to, or indeed utilise, the Inchamore Wind Farm site. There were only two recorded very brief flights of white-tailed eagle during three years of bird surveys at Inchamore, and at most ten seconds of one of these flights was within the flight activity survey area and at the very edge of it. There is no evidence of a nest site within at least 5km of Inchamore. Precautionary mitigation is also outlined, comprising the carrying out of inspections for and removing dead sheep in the area. Therefore reasonable to conclude that risk to white-tailed eagle from the development is negligible and therefore no potential for in-combination impacts.
- In relation to the request for a nocmig, the applicant contents that it is improbable that a significant barrier effect could arise from the proposed Inchamore Wind Farm (either during the day or night) due to the small size of the wind farm and extensive turbine-free zones around it. No evidence of local bird movements though the site or to suggest that Inchamore is a key migration route for birds. The European Commission (2011 Wind energy

developments and Natura 2000) notes that there are few migratory species for which a barrier effect might be significant, given the small size of the proposed wind farm and turbine free area surrounding, the initial likelihood that migrating birds would be subject to barrier effect is low. Note that standard NatureScot guidance for assessment of ornithological impacts by wind farm (SNH, 2017) does not prescribe nocturnal surveys except in particular situations such as presence of owls or nightjar *Caprimulgus europaeus*, where coastal night-time activity might occur and where other important species may be present especially qualifying species of SPAs (none of which is relevant to Inchamore).

- 6.1.7. A response to submissions from prescribed bodies is also provided.
- 6.1.8. In conclusion, the appellant contends that the development will result in minimal impacts on Annex I habitats and habitats of high ecological value within the wind farm site. The development is located in an area deemed 'Open to Consideration' for onshore commercial wind development within the Cork County Development Plan 2022 and in compliance with County Development Plan Objectives BE 15-2 and 13-7, will not result in significant adverse effects on ecological sites or habitats of European, national or local importance. The applicant contends that the local authority decision to refuse planning permission for the development in relation to potential road safety and congestion impacts is no longer applicable.

6.2. Planning Authority Response

- 6.2.1. A response from Cork County Council to the grounds of appeal has not been received.

7.0 Assessment

- 7.1. It should be noted that while the current appeal subject to this report is confined to the proposed works for the wind farm project as it is situated within the County Cork boundary area (as described in section 2 of this report), other works also form part of the proposed project when considered as a whole, including access road modifications / road upgrades that have been considered separately by the Board under appeal reference ABP 317889-23 (situated within County Kerry) and grid

connection works which do not form part of the current application. However, as these works as a whole form the proposed energy project, they are considered as part of the overall environmental impacts of the project in my AA and EIA in sections 8 and 9 below.

7.2. I consider the main issues of the appeal can be dealt with under the following headings:

- Principle of development;
- Reason for refusal no.2: access arrangements / highway safety; and
- Reason for refusal no.1: potential impact upon habitats, in particular wet heath and blanket bog (peatland) areas.

7.3. **Principle of development**

7.3.1. National, regional and local planning policy all support the provision of renewable energy development. The site is located in an area 'Open to Consideration' under the wind strategy in Cork County Development Plan 2022-2028. Wind energy development is open to consideration in these areas subject to demonstrating that they avoid adverse impact. In particular, proposals within Freshwater Pearl Mussel Sub Basin Catchments or in other sensitive catchments must be able to demonstrate that they have been designed in a manner which prevents any risk of peat slippage or erosion. I note that the local planning authority considered risk of peat slippage and an external consultant report is referenced in this regard, with no objections raised to the proposal with respect to this matter.

7.3.2. Objectives under the Cork County Development Plan support the provision of renewable energy, including onshore wind to assist in meeting renewable energy targets, namely objectives 13-1 Energy, 13-2 Renewable Energy and ET 13-4: Wind Energy. Objective ET 13-5: Wind Energy Projects, supports a plan led approach to wind energy development with the aim of identifying areas for wind energy development to ensure minimal environmental constraints, including 'Areas Open to Consideration'.

7.3.3. I note that the appellant asserts that as the subject site is situated in an area open to consideration under the wind strategy for the Development Plan, the site is an appropriate location and will not result in environmental harm. I agree that the

location of the site in an area open to consideration, alongside other objectives supporting the provision of wind energy in the County, suggests that the application is acceptable in principle. However, I also note that this is subject to a wider assessment of other objectives under the development plan, including consideration of biodiversity impact. I also note that objective ET 13-7: Open to Consideration specifically states that adverse impact should be avoided on locations of significant ecological value.

- 7.3.4. Therefore, while I am satisfied that the proposed development is acceptable in principle in accordance with national, regional and local planning policy, an assessment is still required of wider potential impacts to determine overall acceptability / or not, of the proposed development. I set this assessment out in further detail below, including as part of my AA and EIA in subsequent sections.

7.4. Reason for refusal no.2: access arrangements / highway safety

- 7.4.1. I address reason for refusal no.2 first (and before reason for refusal no.1), as it concerns a decision that has already been made by the Board on a separate appeal ref. ABP 317889-23 and therefore can be addressed succinctly; allowing my assessment to focus on the primary matter to which this appeal relates, concerning potential impact upon habitats.
- 7.4.2. With respect to Cork County Council's reason for refusal no.2, this relates to associated application Reg. Ref. 23646 / ABP Reg. Ref. 317889-23 situated within Co. Kerry, for upgrade to 0.8km of existing forest access roads and works at the entrance of an existing forest road accessed off the N22, to facilitate the proposed wind farm subject to this current appeal. Permission was refused by Kerry County Council for two reasons, regarding traffic hazards and potential adverse water quality impacts. Permission was subsequently approved on appeal by An Bord Pleanála in February 2024. Cork County Council's reason for refusal no.2 states that the proposed wind farm development subject to the current appeal is premature until such time that the applicant can address existing deficiencies in the road network and entrance serving the proposed development in terms of safety and capacity, with reference to the associated application 23646. The appeal on that associated application (Ref. 317889-23), concluded that it had been demonstrated that there would not be adverse impact upon the carrying capacity of the N22 arising from the

wind farm project and there would be no intensification of use of the existing access from operation of the wind farm project. While it was concluded that there would be short-term temporary increases in traffic movements over the access during the construction phase, it was decided that this would be appropriately mitigated through the application of measures in a traffic management plan as part of a construction management plan for the project. The Board subsequently approved planning permission for that development.

- 7.4.3. As a result, the proposed wind farm project subject to this current appeal has secured appropriate access arrangements to the site (under associated appeal Ref. 317889-23) and therefore I am satisfied that reason for refusal no.2 has been addressed. Therefore, the primary matter to be addressed in this section of my report relates to reason for refusal no.1 and I do this below.

7.5. Reason for refusal no.1: potential impact upon habitats, in particular wet heath and blanket bog (peatland) areas

- 7.5.1. Reason for refusal number 1 concerns the loss of Annex I Habitat and existing high value peatland habitat, with reference to objectives BE 15-2 and ET 13-7 of the Cork County Development Plan 2022-2028. The decision by Cork County Council also states that the proposal would materially contravene these objectives. My assessment also has regard to national guidelines with respect to habitat protection, including the NBAP 2023.

- 7.5.2. Objective BE 15-2 of the Development Plan ‘Protect sites, habitats and species’ states the following:

“a) Protect all natural heritage sites which are designated or proposed for designation under European legislation, National legislation and International Agreements. Maintain and where possible enhance appropriate ecological linkages between these. This includes Special Areas of Conservation, Special Protection Areas, Marine Protected Areas, Natural Heritage Areas, proposed Natural Heritage Areas, Statutory Nature Reserves, Refuges for Fauna and Ramsar Sites. These sites are listed in Volume 2 of the Plan.

b) Provide protection to species listed in the Flora Protection Order 2015, to Annexes of the Habitats and Birds Directives, and to animal species protected under the

Wildlife Acts in accordance with relevant legal requirements. These species are listed in Volume 2 of the Plan.

c) Protect and where possible enhance areas of local biodiversity value, ecological corridors and habitats that are features of the County's ecological network. This includes rivers, lakes, streams and ponds, peatland and other wetland habitats, woodlands, hedgerows, tree lines, veteran trees, natural and semi-natural grasslands as well as coastal and marine habitats. It particularly includes habitats of special conservation significance in Cork as listed in Volume 2 of the Plan.

d) Recognise the value of protecting geological heritage sites of local and national interest, as they become notified to the local authority, and protect them from inappropriate development

e) Encourage, pursuant to Article 10 of the Habitats Directive, the protection and enhancement of features of the landscape, such as traditional field boundaries, important for the ecological coherence of the Natura 2000 network and essential for the migration, dispersal and genetic exchange of wild species."

7.5.3. With reference to part a) of objective BE 15-2, the proposed development is not located in a designated site under European legislation, National legislation and International Agreements. In relation to part b), there are concerns raised by the Local Planning Authority regarding Hen Harrier as an ex-situ species, and I consider potential effects upon this species as part of my Appropriate Assessment below (section 7 of this report). In summary, I am satisfied that there would be no significant adverse effect upon Hen Harrier as a result of the proposed development. The Local Planning Authority have no other outstanding concerns regarding protected species following receipt of the applicant's response to the request for further information on the application. Therefore, this part of the objective is satisfied.

7.5.4. Part c) of objective BE 15-2 refers to the protection 'where possible' of areas of local biodiversity value, which would include the proposed development site. It goes on to state that this is particularly relevant to habitats of special conservation significance in Cork as listed in Volume 2 of the Plan. I note that with regard to habitats of special conservation significance, this relates specifically to habitats within Special Conservation Areas under European designation, which would not include the subject site. Peatland habitat is however identified as a habitat of conservation

importance in Cork in table 2.4.1 of Volume 2 of the Plan. Restoration of protected blanket bog areas is also a target under the NBAP, however as noted above, the site is not located situated within a Natura 2000 site. I consider the potential impact upon peatland habitats with reference to part c) of objective BE 15-2 further below.

7.5.5. Lastly, the proposal does not result in negative impact with respect to parts d) and e) of objective BE 15-2.

7.5.6. With regard to part c) of objective BE 15-2, the appellant states that the proposed development will not result in significant adverse effects on ecological sites or habitats of European, national or location importance. The applicant addresses each type of habitat to be lost in the vicinity of the turbines. Habitat ref.H4010 wet heath is not a priority Annex I habitat and is of low quality. Habitat ref.H7130 Blanket bog (non-priority) is also in poor condition, with areas of peat that are subject to drying. Habitat ref.H7130* priority blanket bog is Annex I habitat. However, the applicant asserts that this loss is acceptable in their view, due to the minor extent of this Annex I habitat to be lost due to turbine T1 (c.036ha), as well as the fact that the area does not form part of a SAC, and in light of the common presence of blanket bog in the surrounding uplands. The applicant also refers to the proposed mitigation in the form of a habitat enhancement plan in justification of the loss of this Annex I habitat.

7.5.7. I note that the appellants grounds of appeal highlight that the subject site is not within an SAC, and it is suggested that the habitats within the site are therefore not of sufficient quality to warrant SAC designation. In my view, this does not diminish the need to provide protection to areas of ecological value in the County, distinct from any designation under European legislation, and I concur with the Local Planning Authority that this is the approach required under objective BE 15-2 of the Plan. Objective BE 15-2 c) is clear that it relates to the protection and where possible enhancement, of *“areas of local biodiversity value, ecological corridors and habitats that are features of the County’s ecological network”* specifically including peatland and other wetland habitat. This is also supported by table 2.4.1 of Volume 2 of the Development Plan which lists peatland habitat as a habitat of conservation importance in Cork. Similarly, while the proposed development may only be resulting in the removal of what is considered by the applicant to be a ‘minor’ extent of the Annex I habitat, this removal must be viewed in light of the overall context of this habitat in the area, which has been subject to significant levels of decline across its

extent and quality in the County as highlighted by the Local Planning Authority. This is also demonstrated by the quality of habitats on the site itself, with much of the Annex I habitat in unfavourable condition, with the grounds of appeal highlighting issues of over grazing and peat removal as likely factors for this.

- 7.5.8. In this context, the loss of good quality Annex I Blanket bog habitat becomes more significant, and I concur with the Local Planning Authority in this regard. With respect to the other habitat types of lesser quality (non-priority / Annex I habitat in unfavourable condition), the mitigation and justification put forward by the applicant is more compelling in my view.
- 7.5.9. During my visit to the site, I was able to observe the quality of the habitats effected and the condition of the terrain. The condition of the area where turbine T1 is proposed was visibly better in quality, supporting a greater range of plants, visually rich in biodiversity value and positioned in an uplands position. The location of turbines T2 and T3 differed in that sense, being situated on lower topographical positions, and in less lush landscape, with T2 in particular of lesser quality being set in forested area.
- 7.5.10. Objective BE 15-2 refers to the protection 'where possible' of areas of local biodiversity value. Peatland habitat is identified as a habitat of conservation importance in Cork in table 2.4.1 Volume 2 of the Plan. The Local Planning Authority in their request for further information, suggested the omission of turbines T1 and T3, and access road to turbine T2 in order to protect peatland habitat. Figure 2a of Appendix 5.5 demonstrates the extent of habitat coverage in the site. Turbine T3 and the access road to turbine T2 does not pass through Annex I priority habitat, with those elements of the proposal impacting lesser quality H7130 Blanket bog (non-priority) and H4010 wet heath habitat only. As set out above, the appellants case with respect to the significance of this impact is supported by the degraded quality of the existing habitat and the existing low ecological value. Following my visit to the site, I concur with the appellant concerning the condition of the habitat for the locations of proposed turbines T2 and T3, and that consequently the loss of H7130 Blanket bog (non-priority) and H4010 wet heath habitat as a result of the proposed turbine T3 and the access road to proposed turbine T2, is not significant and will be appropriately mitigated through the implementation of the proposed habitat enhancement plan.

7.5.11. With respect to the Annex I priority habitat at the location of proposed turbine T1, the appellant acknowledges the location of proposed T1 is connected to the more extensive intact H7130* blanket bog (priority) habitat to the east. Aerial photos demonstrate this, and it was also apparent from my visit to the site in views of the surrounding area. The location of T2 and T3 differs to T1 in this regard, being situated in areas that have already been disturbed including by forestry use. Taking more of an overview of the area, it is apparent that the peatland area for proposed turbine T1 is a more sensitive location, at the edge of a more extensive and complete blanket bog area situated outside the redline boundary for the site. While this more intact blanket bog area is outside of the footprint of the proposed development and outside of the redline boundary for the application, the north west of the subject site (situated in a more elevated position) is adjacent to it and effectively forms an edge to the area. Through sustaining the edges of such habitat, it will assist in preserving the habitat intact as a whole. To allow the removal within the application site of even a small part of Annex I priority blanket bog habitat, would in my view, reflect a 'chipping away' of this wider intact blanket bog habitat extent, which is evidently under pressure from forestry and agricultural land uses at its other edges.

7.5.12. The proposed location of turbine T1 within the subject site is at the edge of the more extensive intact H7130* habitat outside of the site. While the extent of loss of the H7130* resulting from the proposal may appear relatively minor, this should be viewed in context of the location connected to extensive and intact H7130* habitat, as well as in light of its local biodiversity importance as required in Objective BE 15-2. In addition, given the upland position of the proposed turbine T1 location and the extent of its access road, the extent of habitat impacted will expand beyond the development footprint when considering the construction measures required to facilitate the works on this type of terrain, being elevated and saturated in condition.

7.5.13. I also note that Objective BE 15-2 requires 'where possible' the protection of areas of local biodiversity value, and in this regard, I do not consider that sufficient justification has been provided by the applicant to demonstrate why the location of proposed turbine T1 must be situated in an area of priority Annex I blanket bog habitat in favourable condition. The Local Planning Authority outlined in their request for further information that turbines be relocated or omitted, however the applicant

sort to assert their position without explanation as to what constraints may be prohibiting the relocation of turbines to less sensitive areas. The subject site covers an extensive area, much of which is formed of less favourable habitats, and given the sensitivity of the proposed location of turbine T1, a more suitable part of the site away from favourable priority Annex I habitat could reasonably be possible in my view. As such, I am recommending that the Board omit proposed turbine T1 and should the Board agree, I have suggested a condition to require the same below.

7.5.14. The Local Planning Authority reason for refusal number 1 states that the proposed development materially contravenes both objectives BE 15-2 and ET 13-7 of the Development Plan. The wording of objective ET 13-7 is set out below:

“ET 13-7: Open to Consideration Commercial wind energy development is open to consideration in these areas where proposals can avoid adverse impacts on:

- Residential amenity particularly in respect of noise, shadow flicker and visual impact;*
- Urban areas and Metropolitan/Town Green Belts;*
- Natura 2000 Sites (SPA's and SAC's), Natural Heritage Areas (NHA's), proposed Natural Heritage Areas and other sites and locations of significant ecological value.*
- Architectural and archaeological heritage;*
- Visual quality of the landscape and the degree to which impacts are highly visible over wider areas.*

In planning such development, consideration should also be given to the cumulative impacts of such proposals.”

7.5.15. As I understand it, the Local Planning Authority reason for refusal relates to 'locations of significant ecological value' under objective ET 13-7, as the Local Authority did not indicate in their report or reasons for refusal, any other significant concern under the other potential adverse impacts listed in ET 13-7 as set out above. The site is not a designated European site or NHA / pNHA. However, I have outlined above that the location of proposed turbine T1 is of local biodiversity value and relates to a habitat of conservation importance identified under the Development Plan (peatlands, table 2.4.1 Volume 2). The reason for refusal refers to the loss of existing 'high value peatland habitat'.

- 7.5.16. The location of proposed turbine T1 can therefore be reasonably considered to be of significant ecological value in my view, specifically as peatland habitat is identified as a habitat of conservation importance in Cork in table 2.4.1 Volume 2 of the Plan, and in light of the favourable condition of the habitat, connected to a wider expanse of intact Blanket bog habitat. Conversely, given the poor habitat condition of the location of the other proposed turbines, it would also be reasonable in my view to conclude that they are not situated in locations of significant ecological value. I am therefore satisfied that with the removal proposed turbine T1, the proposed development would be acceptable with reference to both Objectives BE 15-2 and ET 13-7, with remaining effected habitats on the site being of lesser quality and value.
- 7.5.17. In summary, I consider that the proposed development would be acceptable, with the exception of proposed turbine T1. While the proposed development site contains areas of Annex I habitat, the majority of this is in unfavourable (inadequate / bad) condition, with the exception of the location of proposed turbine T1 which is Blanket Bog priority habitat in favourable condition. The Local Planning Authority has not raised any concern with respect to the location of proposed turbines T4 and T5. I disagree with the Local Planning Authority and consider that the proposed footprints and access roads to proposed turbines T2 and T3 will not result in unacceptable harm, due to the poor quality of habitats in these locations. With respect to proposed turbine T1, this is situated in an area of priority Annex I habitat in favourable condition and connected to a larger expanse of intact blanket bog to the east. As such, the adverse effect upon this habitat as a result of both its loss from the development footprint (turbine and access road), as well as adverse effects resulting from construction activities to facilitate the same, would be contrary, in my view, to Objective BE 15-2 which requires the protection 'where possible' of areas of local biodiversity value, and Objective ET 13-7 which requires wind energy development in areas 'open to consideration' to avoid adverse impact upon locations of significant ecological value. However, with the omission of proposed turbine T1, I am satisfied that the remaining development would be acceptable with reference to the aforementioned objectives. As such, I am recommending that the Board approve permission with a condition requiring that proposed turbine T1 be omitted from the development.

8.0 Appropriate Assessment

- 8.1. This section of the report considers the likely significant effects of the proposal on Natura 2000 European sites with each of the potential significant effects assessed in respect of each of the European sites considered to be at risk and the significance of same. The assessment is based on the submitted Appropriate Assessment Screening and Natura Impact Statement submitted with the application. It should be noted that the submitted reports assess the development as a whole, comprising the proposed 5 wind turbines and associated infrastructure within the boundary of County Cork subject to this appeal, as well as the road and access upgrades/works within the boundary of County Kerry approved under associated appeal Ref. 317889-23.
- 8.2. I have had regard to the submissions of prescribed bodies and the Planning Authority in relation to the potential impacts on European sites, as part of the Natura 2000 Network of sites.
- 8.3. The Project and Its Characteristics
- 8.4. See the detailed description of the proposed development in section 2.0 above.
- 8.5. The European Sites Likely to be Affected (Stage I Screening)
- 8.6. The site is situated on the border of Counties Cork and Kerry, is located within the townlands of Inchamore, Mileeny, Derryreag and Derreenaling. The area is within the Drrynasaggart Mountains, west and south west of the N22. The area is formed of agricultural, commercial forestry, bog and heath land. The site is located within the Lee, Cork Harbour and Youghal Bay catchment. The site lies entirely within the Inchamore Stream sub-catchment where five tributaries flow into the Bardinch River, which then joins the Sullane River, a tributary of the Lee. All surface water drainage from the development site will eventually combine in Carrigdrohid Reservoir, from which waters eventually flow to Cork Harbour. Non-mapped natural and artificial drainage channels are present across the site. The natural streams within the site are 1st order with high gradients and do not provide suitable habitat for fish or larger aquatic organisms. The Water Framework Directive status for the mapped surface water body / river (Sullane_010) directly draining the site is classified as 'Good'. The site itself is not situated within a European site, proximity to Natura 2000 sites varies

when considering the various aspects of the proposed wind farm development as a whole. Approximate distances are set out in table 8.1 below.

8.7. I have had regard to the submitted Screening Report to Inform the Appropriate Assessment Process Screening, which identifies that while the site is not located directly within any European site, there are a number of European sites sufficiently proximate or linked to the site to require consideration of potential effects, including in consideration of hydrological connections. These are listed below with approximate distance to the application site indicated:

- Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC (000365) (the site is approximately 1.4km south of the Caragh River component of the SAC);
- Mullaghanish Bog SAC (001890) (the site is approximately 6.9km south-southwest of the SAC);
- St Gobnet's Wood SAC (000106) (the site is approximately 5km west-northwest of the SAC);
- Blackwater River (Cork/Waterford) (002170) (the site is approximately 11km southwest of the SAC);
- Glanlough Woods SAC (002315) (the site is approximately 14km northeast of the SAC);
- Kilgarvan Ice House SAC (000364) (the site is approximately 10km northeast of the SAC);
- Old Domestic Building, Curraglass Wood SAC (002041) (the site is approximately 8.1km east of the SAC);
- The Gearagh SAC (000108) (the site is located approximately 16.8km northwest of the SAC);
- Great Island Channel SAC (001058) (the site is located approximately 62.2km west of the SAC);
- Mullaghanish to Musheramore Mountains SPA (004162) (the site of the proposed wind farm at Inchamore is approximately 6km west of the SPA);

- Killarney National Park SPA (004038) (the site is approximately 14.5km east of the SPA);
- The Gearagh SPA (0004109) (the site is approximately 16.8km northwest of the SPA);
- Cork Harbour SPA (0004040) (closest point along the Turbine Delivery Route is approximately 14m from the SPA);

8.8. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to European sites, and any potential pathways which may exist from the development site to a European site, as well as the information on file, including the assessment of the Local Planning Authority and any relevant observations, and I have also visited the site.

8.9. The qualifying interests of all European sites considered are listed below:

Table 8.1: European Sites/Location and Qualifying Interests

Site (site code) and Conservation Objectives	Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)
<p>Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC (000365)</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130]</p> <p>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260]</p> <p>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p><i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130]</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</p> <p><i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</p>

	<p>Blanket bogs (* if active bog) [7130]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p><i>Taxus baccata</i> woods of the British Isles [91J0]</p> <p><i>Geomalacus maculosus</i> (Kerry Slug) [1024]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Euphydryas aurinia</i> (Marsh Fritillary) [1065]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Rhinolophus hipposideros</i> (Lesser Horseshoe Bat) [1303]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><i>Trichomanes speciosum</i> (Killarney Fern) [1421]</p> <p><i>Najas flexilis</i> (Slender Naiad) [1833]</p> <p><i>Alosa fallax killarnensis</i> (Killarney Shad) [5046]</p>
Mullaghanish Bog SAC (001890) To restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.	Blanket bogs (* if active bog) [7130]
St Gobnet's Wood SAC (000106) To restore the	Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]

<p>favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	
<p>Blackwater River (Cork/Waterford) (002170)</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Alosa fallax fallax (Twait Shad) [1103]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Trichomanes speciosum (Killarney Fern) [1421]</p>

Glanlough Woods SAC (002315) To restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.	Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]
Kilgarvan Ice House SAC (000364) To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.	Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]
Old Domestic Building, Curraglass Wood SAC (002041) To restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.	Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]
The Gearagh SAC (000108) To maintain the favourable conservation condition of qualifying interests/species of conservation interest for	<p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Rivers with muddy banks with Chenopodion rubri p.p. and Bidenton p.p. vegetation [3270]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p>

which the SAC has been selected.	Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Lutra lutra (Otter) [1355]
Great Island Channel SAC (001058) To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.	Mudflats and sandflats not covered by seawater at low tide [1140] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]
Mullaghanish to Musheramore Mountains SPA (004162) To restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.	Hen Harrier (<i>Circus cyaneus</i>) [A082]
Killarney National Park SPA (004038) To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.	Merlin (<i>Falco columbarius</i>) [A098] Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395]
The Gearagh SPA (004109) To maintain or restore the favourable	Wigeon (<i>Anas penelope</i>) [A050] Teal (<i>Anas crecca</i>) [A052] Mallard (<i>Anas platyrhynchos</i>) [A053]

conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.	Coot (<i>Fulica atra</i>) [A125] Wetland and Waterbirds [A999]
Cork Harbour SPA (004030) To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.	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] 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] Common Tern (<i>Sterna hirundo</i>) [A193] Wetland and Waterbirds [A999]

8.10. The above Table 8.1 reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.

8.11. Potential Effects on Designated Sites

- 8.12. The submitted report considers the proposed wind farm project as a whole in the consideration of potential effects upon European sites, including access roads and grid connection works not included in the planning application subject to this current appeal. This is because these works all form part of the same 'project' and therefore require consideration with respect to AA (and EIA) (as established in *Ó Grianna v An Bord Pleanála*). The submitted report identifies any pathways or links from the subject site to European Sites considered in this screening assessment, and I summarise this below.
- 8.13. The majority of the grid connection works are located along an existing forestry road which runs parallel to the Clydagh River. While the closest distance between the cable route corridor and the SAC is 41m, the route crosses three main streams and numerous drains which flow into the Clydagh. The report therefore identifies that there is a hydrological connection between the grid connection works and Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment.
- 8.14. A section of the grid connection corridor runs within a forest track 632m from the Mullaghanish Bog SAC, however this SAC is on higher ground on the forest tract with established forestry and heath between, as such there is no potential for significant effects identified. Given the distance between the SAC and the project and lack of hydrological or ecological connections, no potential impact to this SAC is identified.
- 8.15. St Gobnet's Wood SAC is hydrologically linked to the proposed wind farm development by the Sullane River. However, the QI for this SAC is Old Sessile Oak Woods which occurs on ground above the high water mark and therefore no potential for impact arises. A hydrological connection exists to the Gearagh SAC, Great Island Channel SAC, The Gearagh SPA and Cork Harbour SPA via the Sullane River which drains the proposed wind farm site. However, given the distance between the project and these European sites, any contaminants would be extensively diluted and dispersed. In addition, with respect to European sites at the Gearagh, the continuation of the flow to Cork Harbour means that water drained from the proposed wind farm will not mix with water in those areas. Even in extreme scenarios and without mitigation, water will be attenuated (dilution, dispersal and

settlement). Therefore, there is no potential for significant effects identified on the Gearagh SAC, Great Island Channel SAC, The Gearagh SPA and Cork Harbour SPA.

- 8.16. There is no hydrological, ecological or any other potential connection to Blackwater River (Cork/Waterford) SAC, Glanlough Woods SAC, Kilgarvan Ice House SAC and Old Domestic Building Curraglass Wood SAC. There is also no connection to QI bat species associated with the relevant European sites above to the project, given the distance that these QI bat species would normally fly.
- 8.17. There are habitats within the proposed wind farm site that have the potential to support foraging hen harriers, a QI of the Mullaghanish to Musheramore Mountains SPA.
- 8.18. Habitats within the proposed wind farm site also have the potential to support foraging merlin, a QI of the Killarney National Park SPA. The submitted report states that from a review of the literature (Cramp 1980, Newton et al. 1978, Orchel 1992, Sale 2016), it can be concluded that the hunting range of merlin's breeding within the Killarney National Park SPA does not extend into the proposed wind farm site.
- 8.19. AA Screening Conclusion
- 8.20. I concur with the conclusion of the applicant's screening, with respect to the possibility for significant effects on European sites at Killarney National Park, Macgillicuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA with respect to the following:
- Potential for release of suspended solids/nutrients, concrete and hydrocarbons during construction via a hydrological connection resulting from the grid connection works, with associated adverse effect upon QIs of the Killarney National Park, Macgillicuddy's Reeks & Caragh River Catchment SAC;
 - Potential for disturbance effects / effect on breeding hen harriers during construction as a result of the grid connection work; as a result of habitats within the proposed wind farm site that have the potential to support foraging hen harriers, a QI of the Mullaghanish to Musheramore Mountains SPA.

- 8.21. The specific conservation objectives and qualifying interest of the habitats for the potentially effected European sites relate to range, structure and conservation status. The specific conservation objectives for the species highlighted for the potentially effected European sites relate to population trends, range and habitat extent. Potential effects arising from emissions and disturbance associated with the construction of the proposed development have been highlighted above, which have the potential to affect the conservation objectives supporting the qualifying interest / special conservation interests of the European sites identified. As such, likely effects on Killarney National Park, Macgillicuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is required. The potential impacts are expanded upon in further detail as part of a Stage 2 Appropriate Assessment below.
- 8.22. In relation to the remaining European sites considered, taking into consideration the distance between the proposed development site to these designated European sites, the lack of a direct hydrological pathway with the potential to facilitate significant effect, and/or dilution and dispersal effects, as well as the lack of any other pathway or link to these European sites, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the construction and operation of the proposed development, individually or in combination with other plans or projects, would not be likely to have an adverse effect on the conservation objectives or features of interest of Mullaghanish Bog SAC; St Gobnet's Wood SAC; Blackwater River; Glanlough Woods SAC; Kilgarvan Ice House SAC; Old Domestic Building, Curraglass Wood SAC; The Gearagh SAC; Great Island Channel SAC; Killarney National Park SPA; The Gearagh SPA; and Cork Harbour SPA. Therefore, I agree with the applicant's submitted screening report that a Stage 2 Appropriate Assessment is not required with respect to these aforementioned European sites.
- 8.23. Stage 2 – Appropriate Assessment
- 8.24. The submitted NIS identifies the potential for negative effects upon Killarney National Park, Macgillicuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA as a result of the proposed development and I concur

that an Appropriate Assessment of the proposed development is required with respect to these aforementioned European sites.

- 8.25. The site-specific conservation objectives and qualifying interests / species of conservation interests of Killarney National Park, Macgillicuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA are summarised above in table 8.1. A description of Killarney National Park, Macgillicuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA is set out below. The submitted NIS details the potential effects of the proposed development upon these European sites, alongside any required mitigation to avoid adverse effects. A conclusion on residual impact is then provided. A summary of this assessment is set out below.
- 8.26. Killarney National Park, Macgillicuddy's Reeks & Caragh River Catchment SAC: A large number of plant and animal species of interest occur within the site. For example, two plant species listed on Annex II of the EU Habitats Directive occur, Slender Naiad (*Najas flexilis*) is found in some of the lakes at the site and the Killarney Fern (*Trichomanes speciosum*) is another listed and well-known rarity. An additional twenty-two Red Data Book plant species have been recorded, but only twelve of these have been seen recently. The site is very important for oceanic bryophytes, particularly the woodland species. The Killarney Woods are notable for the number of rare species of Myxomycete fungus that have been recorded. The site has six bird species which are listed on Annex I of the E.U. Birds Directive. The site supports most of the Irish mammal species. Of particular note is the occurrence of two EU Habitats Directive Annex II species: Lesser Horseshoe Bat and Otter. Perhaps the best known mammals of the Killarney National Park are the Red Deer. Sika Deer also occur. Pine Marten is another notable species. The site is valuable for its rare fish species, five of which are listed on Annex II of the E.U. Habitats Directive. There are numerous rare invertebrates within the site.
- 8.27. Mullaghanish to Musheramore Mountains SPA: This site is a stronghold for Hen Harrier. The mix of forestry and open areas provides optimum habitat conditions for this rare, Annex I listed (of the EU Birds Directive) bird. Hen Harriers will forage up to c.5km from the nest site, utilising open bog and moorland, young conifer plantations and hill farmland that is not too rank. The site is of ornithological importance because it provides excellent nesting and foraging habitat for breeding Hen Harrier.

- 8.28. Potential effects:- The submitted report identifies that the majority of the grid connection route is located along an existing forestry road which runs parallel to the Clydagh River, and this river is situated within the Killaryney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC. The route crosses three main streams and numerous drains which flow into the Clydagh. The three streams will be crossed by horizontal directional drilling while the minor streams and drains will be crossed on existing culverts. As a result, construction of the grid connection has the potential to cause negative effects to receiving watercourse and ultimately relevant QIs of the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC. Effects during operational phase are not anticipated.
- 8.29. The construction related water quality impact relates to the potential for the release of suspended solids/nutrients, concrete and hydrocarbons into the drainage network arising from the grid works. Aquatic species can be affected by sediment loading which reduces both aquatic species diversity and food resource. Suspended solids often hold nutrients such as phosphorus that can result in eutrophication and reduced oxygen levels. Instream works are proposed to be avoided for most of the watercourse crossings where there is sufficient depth over existing culverts to accommodate trenching of cable within the road structure. There are three water crossings along the grid connection route which do not have sufficient depth of material on the existing culverts. To avoid instream works, directional drilling technology is proposed and described in detail in section 2.9.5.2 of the submitted EIAR. Where there is sufficient depth over existing culverts, there is a low-risk of generating suspending solids or other pollutants, which can be controlled through mitigation. Where directional drilling is proposed, this addresses the potential risks of siltation or other pollutants entering watercourses. In addition, there are a number of minor ditches running under the existing road, which are either dry or have minimal flows, that will be crossed by damming the ditch upstream and over-pumping (if necessary) during trenching. Without mitigation, these crossings present a temporary minor risk of sediment release and of other pollutants entering the Clydagh River downstream.
- 8.30. In addition, the report identifies the potential for habitat suitable for hen harrier, a QI of the Mullaghanish to Musheramore Mountains SPA, in two locations within the wind farm project site at Inchamore. Baseline bird surveys were undertaken for the

site and set out in detail in Chapter 7 of the EIAR. In summary, the submitted report describes that hen harrier is an occasional winter visitor (October to March) to the site of the wind farm project. Birds were recorded either foraging or flying through the main wind farm site area and adjoining areas to the south (detailed in Appendix 7.16 of the submitted EIAR). There was no evidence of winter roosting within the site or surroundings. The presence of birds in winter in areas such as the wind farm site is consistent with dispersal from breeding areas. The surveys were undertaken in the summer 2017, winter 2017/2018, summer 2018 and winter 2018/2019 periods (Appendices 7.18 and 7.19 of the submitted EIAR). The surveys therefore indicate that the main wind farm site is not used for breeding by hen harrier, and breeding is focused within the SPA itself. Part of the construction grid connection route is located along the route of an existing forestry road which runs north of the Mullaghanish to Musheramore Mountains SPA. The closest distance between the cable route corridor and the SPA is 170m. Construction works along the grid connection route, if carried out during the breeding season, could have disturbance effects on hen harriers breeding within the SPA. The report outlines that in the absence of mitigation, the construction of the section of grid connection cable route which passes close to the SPA could have a significant adverse effect on breeding hen harriers within the SPA if carried out during breeding season.

- 8.31. In-combination/Cumulative effects:- Section 3.7 of the submitted report addresses in-combination effects, with plans and projects highlighted that have potential for in-combination effects alongside the wind far project (inclusive of proposed access roads) due to their size, scale and connectivity. The most prominent project that could result in cumulative effect alongside the proposed access roads subject to this appeal, is the proposed wind farm itself under consideration by Cork Council, as well as the grid connection works which do not form part of the development proposals. The potential impact of these elements is considered as part of effects highlighted above in this Stage 2 Assessment. Nearby projects highlighted relate to proposed, permitted and operational wind farms within a 20km radius of the proposed turbines as part of the proposed wind farm project. These are mostly to the north-east, south and south-west of the Inchamore site relevant to this appeal. No in-combination adverse effects are anticipated with reference to these surrounding wind farm projects.

- 8.32. While decommissioning of the project will be scheduled to take place after a proposed 35 year lifespan, the grid connection cable and on-site substation will be left in-situ as these infrastructure will remain under the ownership of ESB.
- 8.33. Mitigation:- Section 3.3.1.2 of the submitted report describes proposed mitigation. This follows details set out in Chapter 9 of the EIAR with respect to drainage measures which are incorporated into a Construction and Environmental Management Plan (CEMP), including Construction Method Statements for key works. The CEMP includes a Surface Water Management Plan, Water Quality Monitoring Plan, Watercourse Crossing Plan and a Waste Management Plan. With respect to hen harrier, the laying of the relevant grid connection section close to the Mullaghanish to Magheramore Mountain SPA will take place outside of bird nesting season (March-August).
- 8.34. Table 6 of the submitted report sets out a summary of effects and mitigation. Key mitigation measures during the construction phase of the grid connection are highlighted below:
- Establishment of a 65m buffer zone between work areas and watercourses. Where the buffer zone is less than 65m (as along sections of the cable route), further specific mitigation will be implemented;
 - Provision of sediment traps or settlement ponds;
 - Monitoring;
 - Measures around the storage of oils, hydraulic fluids etc.;
 - Pouring of concrete etc. to be completed in dry weather;
 - Refuelling of vehicles off-site where possible;
 - Culverting works to be undertaken in dry flow conditions on drains that do not run dry. Use of double silt fences during culvert installation works;
 - Reinstatement of bank sides and streambeds;
 - No concrete batching on site;
 - In the unlikely event of pollution to watercourse, implementation of measures set out in a site specific Emergency Response Plan included in the CEMP;

- Excavated trenches will be dewatered if required, with dirty water attenuated before discharge. Grass will be reinstated if required, to prevent loose soil/sediment material entering surface water features.
- Drainage measures to attenuate runoff, guard against soil erosion, soil compaction and safeguard local water quality.
- Silt fencing filtration system;
- Reinstatement of roads;
- Installation of precast concrete cable joint bays within excavated trenches;
- Finish of surface above cable joint bay in bituminous layer to the satisfaction of the local authority; and
- No works will take place along the identified section of the grid connection route in proximity to the Mullaghanish to Magheramore Mountain SPA during the breeding season (March-August inclusive).

8.35. The submitted report references mitigation measures during the operational phase to protect water quality from pollutants on page 44. However, there are no potential adverse effects identified during operational phase arising from the proposed wind farm project and associated works. The report confirms that potential effects are isolated to the construction phase on pages 34/35 and 36/37. I am also satisfied that there is no potential for adverse effects requiring mitigation during the operational phase and that the proposed wind farm project would not generate the potential for pollutants during operation. As such, I have not taken into account the reference to mitigation during operation on page 44 of the submitted report. I also note that it is confirmed throughout the report that decommissioning does not apply to the grid connection which will remain within ESB ownership, and therefore mitigation is not relevant in this regard.

8.36. With the application of the mitigation measures outlined in the NIS and summarised above, the NIS concludes that the project will not, alone or in-combination with other plans or projects, result in adverse effects to the integrity and conservation status of European Sites. I am satisfied with the data presented in the submitted NIS and concur with the conclusions reached with regard to the proposed mitigation measures and the overall potential significance of impact to Killarney National Park,

Macgillycuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA.

8.37. I note the Local Planning Authority's Ecologist comments with respect to potential impact upon Hen Harrier, with reference to the further information requested in this regard, and the applicant's response. The LPA Ecologist state that they are satisfied that the potential for significant adverse effects on the conservation objectives for the species within the Mullaghanish to Musheramore Mountains SPA can be ruled out based on the overall information provided in the planning pack and the omission of turbines from ex-situ Hen Harrier foraging habitat (heath and bog). Therefore, the ecologist is requesting the omission of turbines (T1 and T3) from ex-situ habitat, in order to preserve foraging habitat for Hen Harrier. The appellant's grounds of appeal states that the both the quantum and quality of impacted habitat is low, and that these habitats are commonly represented in the surrounding area. Therefore, it is asserted that no significant impact arises from the loss of these habitats given the small portion impacted and the frequency that it occurs in the surrounding area. The further information submitted for the application details that the subject site is outside the core foraging area for Hen Harrier and coupled with the low number of survey recordings of Hen Harrier (refer to paragraph 8.30 above), and limited suitable habitat available in the site, this demonstrates that the site is not used by foraging regularly. I am satisfied based upon the reports submitted for the application, that the site does not form a regular ex-situ foraging habitat for Hen Harrier, and that given the small proportion of habitat that would be suitable for this species that would be impacted, alongside the availability of this habitat in the surrounding area, there would be no significant impact upon this QI species that would warrant the omission of proposed turbines from the subject site.

8.38. AA determination – Conclusion

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

8.40. Having carried out a Stage 1 Appropriate Assessment Screening of the proposed development, it was concluded that likely adverse effects on Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to

Musheramore Mountains SPA could not be ruled out, due to potential hydrological links to the subject site and proximity of grid connection works to these European sites, with respect to potential for adverse effect upon water quality and breeding bird QI species (specifically hen harrier). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

- 8.41. Following a Stage 2 Appropriate Assessment, with submission of a NIS, it has been determined that subject to mitigation (which is known to be effective) relating to measures to control construction impact, as well as measures to control and manage potential emissions during construction of the grid connection to water bodies and the prevention of grid construction works during bird breeding season (March-August), the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites, Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA, or any other European site, in view of the sites Conservation Objectives.
- 8.42. This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects, and it has been established beyond scientific reasonable doubt that there will be no adverse effects.

9.0 Environmental Impact Assessment

- 9.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project. A description of the proposed wind farm development is set out in section 2 of this report above. The proposed wind farm development includes a range for blade tip height, rotor diameter and hub height as described in section 2 above, and this EIA considers the potential for impacts with respect to this range.
- 9.2. The Planning and Development Regulations 2001, Schedule 5, part 2 sets out relevant thresholds for types of development that would trigger a mandatory requirement for EIA and submission of an EIAR (Environmental Impact Assessment Report). The proposed development forms a renewable energy development (windfarm project) including provision of 5 turbines with a capacity of between 5.6 and 6.6 megawatts and electrical substation, as well as associated grid connections,

and falls within a class of development in Schedule 5, Part 2 (3) (i) wind farms with more than 5 turbines or having a total output of greater than 5 megawatts and accordingly an EIA is required for the proposed development.

- 9.3. Where topics and issues raised in submissions concern environmentally related matters have already been addressed in the wider planning assessment described above, I have cross-referenced between sections to avoid unnecessary repetition. It should also be noted that the proposed wind farm project includes access road arrangements considered under a separate appeal under reg. ref. ABP-317889-23. This is due to the project site area, which transverses two county council areas (Counties Cork and Kerry). Therefore, while the proposal is considered as a single project for EIA purposes, this has been considered under two application / appeal processes, and therefore the EIA contained in this report generally reflects that set out for appeal reg. ref. ABP-317889-23, with allowance for specific considerations under individual policies / objectives of the Cork County Development Plan 2022-2028.
- 9.4. The EIAR comprises a non-technical summary, a main volume and supporting appendices. Chapter 1 of the main volume identifies the contributors to the report and their expertise in the preparation of the EIAR, and a description of mitigation measures is set out in each chapter.
- 9.5. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.
- 9.6. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information

submitted with the application and appeal, including the EIAR, and to the planning assessment completed in section 7 above, as well as the submissions received from the prescribed bodies and the Local Authority report which are summarised in section 3 of this report above.

9.7. Vulnerability of Project to Major Accidents and/or Disaster

9.8. Chapter 16 Major Accidents and Natural Disasters describes the likely significant effects on the environment arising from the vulnerability of the project to risks of major accidents and/or natural disasters. The EIAR confirms specific construction, operational and decommissioning related risks associated with the project. These include severe weather, flooding, peat stability, traffic incident, contamination, industrial accident (fire/gas explosion), collapse/damage to structures and loss of critical infrastructure. All of the identified risks are classified as 'low risk scenarios' within the EIAR. The main mitigation for the project is set out within a Construction and Environmental Management Plan, which also includes an Emergency Response Plan to be implemented in the event of an emergency. With the implementation of mitigation measures, there will be no significant residual effect(s) associated with the Project.

9.9. Having regard to the location of the site and the existing land use as well as the zoning of the site, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

9.10. Alternatives

9.11. Chapter 3 Alternatives in the submitted EIAR considers the reasonable alternatives that have been considered. Under the 'do nothing' scenario, the EIAR explains that the land use of the site would remain unchanged, the prospect of creating sustainable energy would also be lost. This would not assist in Ireland's contribution to reducing global warming and would fail to contribute to limiting warming as agreed to in the Paris Agreement. The wind farm project has the potential to prevent approximately between 30,038 and 35,373 tonnes of CO₂ emissions per annum.

9.12. The EIAR explains the process undertaken as part of site selection. The selection process sort to identify an area that would be capable of accommodating a wind farm development while minimising the potential for adverse impact on the environment. The potential for grid connection is also identified as a key component in site

selection. Sites that emerged from the selection process have been brought forward as separate planning applications. The EIAR states that the alternative to this would be to bring forward a site that did not pass the above phases of the screening process, which would generate adverse environmental effects. Other sites would also potentially be outside of practical proximity to existing grid infrastructure and not be economically viable. The process for the wind farm design and layout is described, ultimately leading to a reduction in the red-line boundary from 481ha to 170.1ha. Alternative wind turbine designs were also considered, and it was concluded that the provision of fewer, larger turbines with greater power output was in line with industry trends, increasing energy efficiency and improving energy output. Alternative renewable energy technologies, turbine haul route and mitigation measures are also set out in Chapter 3.

- 9.13. A comparison of potential environmental effects for an alternative grid connection arrangement is set out in tables 3.8 and 3.9 of the EIAR, and alternative grid connection routes are considered in section 3.8.2. The selected grid connection route contains less bridges than alternatives, and the majority of it is located within lands in the applicant's control. Consideration of connections to hydrological catchments and drainage implications informed this process as set out in the EIAR (table 3.9).
- 9.14. Overall, I am satisfied that, the Directive requirements in relation to the consideration of alternatives have been satisfied.
- 9.15. Consultations
- 9.16. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.
- 9.17. Likely Significant Direct and Indirect Effects
- 9.18. The likely significant indirect effects of the development are considered below and reflect the factors set out in Article 3 of the EIA Directive 2014/52/EU.
- 9.19. Population and Human Health
- 9.20. Population and Human Health is considered in Chapter 4 of the EIAR. This chapter describes the baseline characteristics of the study areas in terms of population and

settlement patterns, economic activity, land use, tourism and human health, consideration of the impact of wind farms upon these characteristics, as well as upon property value and in relation to natural disasters/accidents is outlined. Potential impact is then described in section 4.4. No significant impacts are identified upon population and human health. Slight negative impact is anticipated during the construction and decommissioning phases arising from short-term construction related effects, specifically with regards to traffic noise, volume and dust, impacting population and tourism. Positive economic and employment impact is predicted arising from short-term effect from construction worker employment and spend in the area, with long-term positive economic effect during operation resulting from a high-quality energy supply making the region attractive to business. Mitigation is described in section 4.5 and includes a range of construction related remedial mitigation measures. Mitigation is embedded in the project proposals.

- 9.21. Section 4.9 of the EIAR sets out an assessment of the potential for Shadow Flicker associated with the project. The 2018 Review of the 2006 Wind Energy Development Guidelines confirms that: "Shadow Flicker occurs when the sun is low in the sky and the rotating blades of a wind turbine casts a moving shadow which, if it passes over a window in a nearby house or other property results in a rapid change or flicker in the incoming sunlight. The time period in which a neighbouring property may be affected by shadow flicker is completely predictable." Shadow flicker will only occur when the sun is shining, the turbine is directly between the sun and the property and the turbine blades are moving. Shadow flicker effect from wind turbines is considered an effect on residential amenity, rather than having the potential to affect the health of residents. The 2006 Guidelines state that "It is recommended that shadow flicker at neighbouring offices and dwellings within 500m should not exceed 30 hours per year or 30 minutes per day." However, the Draft Revised Wind Energy Guidelines December 2019 provides for zero shadow flicker. The submitted assessment is based on compliance with the current 2006 Guidelines, however the EIAR notes that if the draft guidelines are adopted while development proposals are in the planning system, the project can be brought in line with the any new requirements through the implementation of mitigation measures, subject to a time allowance for the turbine to safely stop rotating. An assessment of predicted impact from shadow flicker from the project, both from individual turbines, and collectively, and with reference to potential

cumulative effect is set out in section 4.9 of the EIAR. Mitigation is also described, and formed an automatic shut down to a turbine during periods when shadow flicker exceeds the thresholds as set out in the 2006 guidelines, restarting when the potential for shadow flicker ceases. Overall it is concluded that with the implementation of this mitigation, and installation of a blade shadow control system, the project will not result in significant impacts in relation to shadow flicker. In addition, with the application of mitigation no significant residual cumulative effect is identified.

9.22. Overall, I concur with the conclusions of the EIAR with respect to population and human health.

9.23. Biodiversity

9.24. Chapter 5 of the EIAR addresses potential effects of the project upon biodiversity. Existing habitats on the site are described as well as surveys of fauna species. Chapter 6 specifically addresses Aquatic Ecology and Chapter 7 focuses on Ornithology.

9.25. In terms of habitat species, the site is dominated by conifer plantation (WD4), the unplanted area of the site is mostly wet heath (HH3), with areas of upland blanket bog (PB2) and cutover bog (PB4). Both wet heath and blanket bog are Annex I listed habitats, with active blanket bog having priority status. Other habitats represented within the site are dry siliceous heath (HH1), exposed siliceous rock (ER1) (both of which are also Annex I habitats) and eroding/upland rivers (FW1). The grid connection route is almost entirely along existing forest tracks. In terms of potential connection to European sites, I address this as part of my AA in section 8 above. The submitted EIAR sets out the results of the NIS for the project. In terms of other designated sites, the project site is hydrologically linked to Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment and St. Gobnet's Wood proposed Natural Heritage Areas (pNHAs). There is no ecological or hydrological connectivity to Natural Heritage Areas (NHA) or any other proposed Natural Heritage Areas surrounding the site (pNHA).

9.26. Bat surveys were undertaken of the site and nearby areas in 2022. There were four sets of buildings inspected, one set within the site but not in the area of proposed infrastructure and three located outside of the site. Building 2 within the site was

recorded as a bat roost for three species of bat: lesser horseshoe, Natterer's and brown long-eared bat. Surveys of the wider site area recorded soprano pipistrelle, common pipistrelle, Myotis species, Leisler's, Natterer's, whiskered, Daubenton's, lesser horseshoe and brown-long eared bat. During summer surveys, bat activity ranged from low to high depending upon location within the site. All bat species are recorded as 'Least Concern' on the Irish Red List and protected under the EU Habitats Directive Annex IV and Wildlife Acts, and the Lesser Horseshoe is listed as Annex II under the Directive.

- 9.27. All mammal species recorded on the site or expected to occur on the site are listed as 'Least Concern' on the Irish Red List. Irish hare, pine marten and all deer species which may occur on the site are protected under the Wildlife Acts 2007-2022 as amended. The common frog and common lizard which may occur on the site are protected under Wildlife Acts and are listed as 'Least Concern'. A 2020 survey of the site supports the conclusion that the habitat types wet heath / blanket bog and rock outcrop habitat at the site support an important population of Kerry Slug, which is rated as being of County Importance.
- 9.28. In relation to aquatic ecology, watercourses within the proposed wind farm site itself are small 1st order tributaries with high gradients and do not provide suitable habitat for fish or larger aquatic organisms. There are three minor watercourses within the site which will be crossed by the proposed road network, with clear-span structures, that avoid instream works. There are three minor streams along the length of the grid connection route which have no fisheries value and that will be crossed by horizontal directional drilling avoiding any instream works. Other minor watercourses will be crossed on existing culverts. The turbine delivery route does not require any modification to watercourses. Surveys were undertaken in 2020 of watercourses at the site and within a potential zone of influence of the development with reference to hydrological connections, as well as c.500m downstream of the site. Inchamore Stream contains areas of moderate to good and very good quality brown trout habitat, spawning and nursery habitat. No evidence of freshwater pearl mussels was recorded, with the exception of a single dead shell. However, freshwater pearl mussels occur on the River Sullane, the River Flesk and the lower reaches of the Clydagh River which extends into the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC, of which they are a QI of. The construction grid

connection route, in part, runs parallel to the Clydagh River. All watercourses sampled had a High Water Framework Directive water quality status.

- 9.29. Bird surveys were carried out between April 2017 and June 2021, comprising flight activity, breeding moorland/wader, breeding and winter bird transect, hinterland, merlin and red grouse surveys. The following species were recorded in on-site surveys and are species of European conservation importance (Annex I of the Birds Directive) and/or are species of national conservation importance (Red or Amber listed): white tailed eagle; hen harrier; kestrel; merlin; peregrine; red grouse; golden plover; snipe; woodcock; lesser black-backed gull; goldcrest; skylark; swallow; willow warbler; starling; wheatear; grey wagtail; meadow pipit; and linnet. Sparrowhawk and buzzard were also observed, and while not of conservation importance, are sensitive to wind energy projects. On the basis of providing breeding, foraging and roosting habitat for several Annex I listed and Red-listed species, the bog and heath component of the site is rated as of county importance for birds. The afforested area of the site is of low importance for birds and is rated as local importance (low value).
- 9.30. In terms of potential impact in the absence of mitigation, there is potential for contaminants originating from the project site during construction / decommissioning reaching those pNHAs hydrologically linked to the site. There will also be disturbance and loss of habitat, specifically loss of conifer plantation (rated as not significant) and loss of 2.5ha of wet heath and wet heath/blanket bog mosaic classified as a significant adverse effect of permanent duration. Disturbance of this Annex I habitat during construction is also concluded to be a significant adverse effect of medium duration. There will also be loss of 1.63ha of cutover bog, rated as poor quality, with a slight adverse permanent effect. Replacement of conifer plantation with more open habitat which supports native plant species will benefit small mammals and is rated as a positive effect of moderate significance over the long-term. In the absence of mitigation, significant adverse impact could result to terrestrial mammals, amphibians, invertebrates (Kerry Slug), nesting birds and reptiles during construction or decommissioning activity associated with the project. With regards to the potential for collision between turbine and bat species, the EIAR includes a risk assessment which demonstrates potential high risk associated with one turbine and medium risk with a further turbine, with other turbines classified as

low risk. It is predicted that the cumulative impact of exiting forestry operations alongside the project will not cause a significant increase in potential impacts.

- 9.31. Potential impact upon aquatic species relate to potential construction (and decommissioning) related negative effects as a result of the release of suspended solids, concrete and hydrocarbons in run-off. Increased silt loads could negatively impact on water quality, salmonid spawning habitat and freshwater pearl mussel. Without mitigation, there is a minor risk of sediment release and of other pollutants entering the Clydagh River downstream. In the absence of mitigation, impact upon freshwater pearl mussel and salmonids is considered a medium term significant negative effect at the international scale. There are no likely significant negative effects identified for the operational phase.
- 9.32. Potential impact upon bird species relates to habitat loss, disturbance of breeding birds and nest damage or destruction during construction phase. During operational phase, potential effects relate to collision, displacement and barrier effects.
- 9.33. Mitigation is described in sections 5.6, 6.5 and 7.5 of the EIAR and can be summarised as follows: water quality control measures; implementation of mitigation set out in a CEMP for the project (including avoiding works during bird breeding season); an Ecological Clerk of Works / Environmental Manager overseeing the implementation of mitigation for the project; restricted access to bog and heath; revegetation of bare surfaces; pre-construction surveys; buffer zones (to bats and breeding birds); specific mitigation to protect bats during construction and operation; measures to minimise impact upon Kerry Slug; implementation of a Habitat Enhancement Plan; measures to reduce collision risk, and monitoring. With the implementation of mitigation as described in the EIAR, not significant impacts are predicted with respect to biodiversity, including aquatic and bird species, except in relation to local bat populations, with impact predicted to be slight to imperceptible negative effect with no effect to the conservation status of local bat species; significant negative long-term adverse effect to wet heath and blanket bog habitats; slight adverse to moderate adverse negative effect to kestrel and golden plover due to collision risk and slight significant adverse effect of short-term duration related to disturbance of nests during construction phase. This significant effect upon wet heath and blanket bog is proposed to be compensated through a Habitat Enhancement Plan.

- 9.34. The Local Planning Authority refused planning permission, in part, due to the loss of Annex I Habitat, leading to the further loss of existing high value peatland habitat, as a result of the proposed development and specifically the location of proposed turbines T1, T3 and access road to T2 contrary to objectives BE 15-2 and ET 13-7 of the Cork County Development Plan 2022. I address this in detail in section 7 above.
- 9.35. I concur with the conclusions reached in the EIAR with respect to biodiversity, including aquatic species and ornithology, as summarised here, with slight to moderate significant negative residual effect identified relating to bats and birds, and significant adverse impact resulting from the loss of wet heath and blanket bog habitat. The impact upon bats and birds would not be at a population level, and appropriate mitigation and monitoring measures are outlined in the EIAR to combat this effect.
- 9.36. The EIAR proposes mitigation with respect to the significant effect to wet heath and blanket bog habitat identified, through implementation of a Habitat Enhancement Plan for the project, however consideration is still required with reference to relevant policies and objectives under the Development Plan as highlighted in the Local Planning Authority reason for refusal. I have considered the significant negative effects upon habitats as part of my assessment of the Local Planning Authority's reason for refusal no.1 in section 7 above. While the proposed Habitat Enhancement Plan is an appropriate approach to the mitigation of negative effects as identified through the EIAR process, part c) of objective BE 15-2 of the Cork County Development Plan 2022-2028 refers to the protection 'where possible' of areas of local biodiversity value, which would include the proposed development site. Peatland habitat (blanket bog) is identified as a habitat of conservation importance in Cork in table 2.4.1 of Volume 2 of the Plan. Objective ET 13-7 also requires wind energy development in areas 'open to consideration' to avoid adverse impact upon locations of significant ecological value. The appellant has not prioritised protection of the Annex I (priority) habitat on the site, which is of biodiversity value, and as suggested by the Local Authority, it is possible to avoid this negative impact through an alternative location for turbine T1. With reference to objectives BE 15-2 and ET 13-7, I concur with the Local Planning Authority that in the absence of an alternative location, which could have been presented by the appellant, the most appropriate way to mitigate the significant negative impact identified to habitats in the EIAR is

through both the omission of turbine T1 and the proposed Habitat Enhancement Plan. As such, my recommendation includes a condition to require the same, and with the omission of turbine T1 and implementation of the proposed Habitat Enhancement Plan, I am satisfied that the impact of the proposed development upon habitats would be within acceptable parameters.

9.37. Land, soil, water, air and climate

9.38. Soils and geology are addressed in Chapter 8 of the EIAR. This includes an overview of the baseline characteristics of the site informed by site investigation and desktop study. A peat slide risk assessment is also presented. Potential effects relate to land take (for the wind farm development, grid connection and turbine delivery route); felling of forestry causing soil erosion, compaction, degradation, changes to geology, changes in hydrological processes, increased sediment runoff and nutrient pollution in waterways, and soil nutrient loss; subsoil and bedrock removal resulting in the release of contaminants; excavations including at turbine hardstand areas, for a burrow pit, for site cabling trenches, for the turbine delivery route (including widening of the entrance to the N22), and grid connection trenches; land stability; spoil management; geological stability; and soil contamination.

9.39. Mitigation is identified in section 8.5 and is largely formed of undertaking works in accordance with best practise and implementation of measures set out in the project CEMP. Excavated materials from the site will also be reused where possible, including bedrock and peat. Peat and slope stability investigations at the site indicate that the site has a generally low risk probability with respect to peat slippage and slope failure, however mitigation is still intended to further minimise this risk. Measures are outlined to prevent soil contamination. With the implementation of mitigation, effects are anticipated to range from neutral, slight, to slight to moderate in terms of significance.

9.40. Chapter 9 deals with Hydrology and Hydrogeology, with findings informed by a desk top study and field investigations, including baseline sampling of surface waters. The wind farm site is underlain by areas classified predominantly as 'Extreme (E)' groundwater vulnerability rating which tend to be at lower elevations, with some areas mapped as 'Rock at or Near Surface (X)' vulnerability rating particularly at higher elevations. The site is characterised by low to very low recharge rates in

overburden (soils/subsoils) and very low recharge capacity in the underlying bedrock aquifer, meaning that the majority of water in wet conditions, will drain off as surface water runoff. Potential effects include the following: excavations with potential to impact on surface water and groundwater; effects associated with forestry felling relating to soil erosion, compaction, degradation, changes in geology, changes in hydrological processes, water quality impact and soil nutrient loss or loading; release of suspended solids into runoff; vehicular movements causing localised stability issues giving rise to impacts on surface water; release of hydrocarbons into waters; impact on bog water levels or drainage channels; dewatering of excavations; and upgrading and installing watercourse crossings associated with drying, wetting, increased hydrological response to rainfall or release of suspended solids.

- 9.41. The EIAR identifies that for a worst-case scenario and in the absence of mitigation, there is potential for direct, negative, potentially significant impacts associated with release of contaminants during works along the grid connection route related to culverts, hydrologically linked to the surface waterbody Garrange [Lee] (EPA Code: 19G03). While such impact at the site would likely be short lived or temporary, potential secondary impacts to downstream receptors through leeching can be long lasting or permanent.
- 9.42. During operational phase, the scale of potential impacts would be small relative to construction or decommissioning phases, however relevant mitigation measures outlined for the construction phase would be applied to maintenance and monitoring operations during the operational phase to prevent adverse effects. No significant excavations will occur during decommissioning phase, therefore no new impacts are anticipated during decommissioning and no additional mitigation is required.
- 9.43. Mitigation is set out from section 9.6. Mitigation by avoidance (including buffer zones) and design forms the primary approach to the project. Sustainable drainage systems (SuDS) will be employed to attenuate runoff and reduce the hydrological response to rainfall at the site. The drainage design for the project is set out in a Surface Water Management Plan appended to the EIAR. Attenuation features will be implemented, including check dams and stilling ponds and buffer outfalls. Excavated peat will be deposited in order to restore infilled excavation areas and one successfully restored / revegetated it will promote the recovery and development of peatland habitats which will lead to improvements to the hydrological regime.

Specific mitigation is described to manage and mitigate potential adverse impacts arising from earth works and management of spoil. Mitigation is also highlighted in relation to excavation dewatering. Mitigation is included in the project CEMP 'Management Plan 2- Water Quality Management Plan' Appendix 2.1.

- 9.44. In relation to the grid connection route, excavation will be controlled, with surface water buffer zones and management of excavated material. Spoil from public roadways will be transported to a licenced facility due to the presence of bituminous material and potential hydrocarbon contaminants. Measures will be implemented to control temporary stockpile areas and earthworks will be limited to meteorological dry periods and will not occur during sustained or intensive rainfall events. Specific measures are also highlighted to mitigate potential adverse impact associated with excavation of cable trenches, watercourse crossings and horizontal directional drilling. This includes an Environmental Clerk of Works who will be onsite to lessen environmental disruption and ensure site integrity is maintained.
- 9.45. Detailed mitigation is outlined in sections 9.7 and 9.8 regarding impact posed by release of suspended solids to the surface water environment and to reduce potential impacts from the environmental release of hydrocarbons and other harmful chemicals to surface waters. Measures to mitigate potential impact during water crossings, culverts, drainage diversions and to prevent effect upon groundwater are also highlighted. Monitoring measures are also outlined in the EIAR.
- 9.46. With the implementation of mitigation, the overall residual impact upon Hydrology and Hydrogeology is anticipated during construction phase to be direct, negative, imperceptible and temporary. There would be no significant adverse impacts following mitigation, with individual effects ranging from neutral, neutral to slight, and slight. It is also predicted that with the application of mitigation, the project will not contribute to cumulative surface water or groundwater effects.
- 9.47. Potential effect upon air quality and climate is outlined in Chapter 10 of the EIAR. This describes the existing air quality conditions of the area and potential effect as a result of the project. The main potential impact during construction will be the generation of dust emissions. There will also be emissions from plant and machinery / vehicles associated with the construction of the project. These effects would result in short-term, slight, negative impact. During operational phase there will be an

imperceptible negative impact due to the low number of vehicles accessing the site and the nature of the project. During decommissioning phase, impact is predicted to be imperceptible. Mitigation is set out in section 10.2.8 of the EIAR and largely relates to good practise site control, with implementation of measures set out in the CEMP for the project. No cumulative construction phase air quality effects are predicted. Operational phase would have imperceptible negative cumulative effect. With the application of mitigation, no potentially significant negative effects would result. Long-term significant positive impact on air quality would result from the wind energy created by the project resulting in emissions savings when compared to coal, oil or gas.

- 9.48. Section 10.3 of the EIAR considers climate and greenhouse gases associated with the project. Short-term, slight, negative impact is predicated to result from emissions associated with vehicles and plant for construction and decommissioning activities for the project. During operational phase, the generation of electricity from a renewable source will assist in reducing carbon dioxide emissions resulting in long-term, moderate, positive effect on the climate. Cumulative impact is also predicted to be positive in terms of carbon reduction and climate, however slight short-term construction/decommissioning phases and imperceptible long-term operational phase, negative cumulative impact is anticipated on the climate from combined emissions. No potential significant residual effects are identified in the EIAR with respect to climate.
- 9.49. I concur with the conclusions of the EIAR with respect to lands, soils, geology, hydrogeology, hydrology and air quality as described above, and consider that with the application of mitigation as described, impact will be within acceptable parameters.
- 9.50. Noise and vibrations
- 9.51. Chapter 11 'Noise' of the EIAR addresses noise and vibration and includes description of a baseline noise survey of the site, as well as relevant applicable guidance with respect to noise and vibration.
- 9.52. The construction process is not considered intensive and is temporary works, most of which being carried out a considerable distance from receptors. The main noise sources will be associated with construction of the turbine foundations, hardstands,

grid connection, extraction and processing in the burrow pit, with lesser sources being site access roads, construction of the substation, compound and widening of a road along the turbine delivery route. Noise will also result from vehicles delivering to the site. Decommissioning is predicted to result in similar impact. In the absence of mitigation, these activities would result in not significant, negative, temporary effect. During operational phase, an assessment of predicted noise levels against noise limits in the Wind Energy Development Guidelines 2006 is presented in the EIAR. The predicted noise levels at all receptors are lower than the noise limits in all cases, at all wind speeds, and therefore not significant in terms of EIA. Additionally, cumulative impact is demonstrated in the EIAR to not exceed noise limits.

- 9.53. The main vibration impact will result from blasting in the burrow pit, as well as air overpressure. This activity is proposed in excess of 600m from the nearest receptor, and at this distance, is not predicted to result in significant effects.
- 9.54. Mitigation is described from section 11.17. No significant residual effects are predicted to result in the EIAR with respect to noise and vibration arising from the project and I concur with this conclusion.
- 9.55. Material assets (land use, telecommunications, electricity networks, air navigation, quarries, and utilities)
- 9.56. Chapter 13 of the EIAR concerns 'Material Assets and Other Issues'. Topics covering included land use, telecommunications, electricity networks, air navigation, quarries, and utilities (gas, water and waste).
- 9.57. In terms of commercial forestry and agricultural land use, no significant impacts are predicted. Potential impact relates to loss of use of the land for forestry or agricultural activities. Mitigation includes avoidance, the channelling of cables underground, the use of existing forestry roads and accesses, and the management of construction works through a CEMP as well as communication around access to lands if effected by construction activities.
- 9.58. In relation to telecommunications, the EIAR confirms that all electrical elements of the development are designed to ensure compliance with electro-magnetic fields (EMF) standards for human safety. Potential impact relates to obstruction to telecommunication links. Mitigation is in the form of avoidance, with known routes of telecommunications links plotted and a buffer applied, outside of which the proposed

turbines are located. The Developer will also accept financial responsibility for any remedial measures required should negative impact result. No significant residual effects are predicted upon telecommunications with the implementation of mitigation.

- 9.59. For electricity networks, there will be no impact on the overhead network. Potential negative impact relates to disruption not networks. However, the development will contribute directly and in the long term to the electricity network through additional renewable energy. Mitigation by design and avoidance minimise impacts on existing electricity networks. No significant negative impact on the grid connection or network are anticipated. Long-terms slight positive residual impact on transmission infrastructure in the area is predicted with no impact on distribution.
- 9.60. With regards to air navigation, potential impact relates to obstruction of aviation activities due to cranes or turbine heights. No significant effects are predicted; however, mitigation is still intended in a precautionary approach and includes an aeronautical lighting scheme and communication with the Irish Aviation Authority of intention with regards to turbine locations and commencement of crane operations.
- 9.61. For quarries, the construction of the development will impact on natural resources such as aggregates sourced from quarries. Mitigation includes the use of existing tracks where possible, use of an on-site borrow pit, use of local quarries and use of stone chemically similar to that occurring at the site. With the application of mitigation, no significant negative impact on local quarries is anticipated. There will be a slight permanent negative residual impact on natural resources in the area.
- 9.62. Utilities are addressed in section 13.10 of the EIAR. There is no potential for impact upon the gas network as there are no existing gas services within the project area. No detailed information was provided by Irish Water or Cork County Council in relation to water services and therefore it is assumed that there is no potential for encountering local water services. The locations of watermains, fire hydrants, metres and sluice valves are recorded as part of the survey for the grid connection route. The potential for impact upon water services is assessed as part of hydrology and hydrogeology, as well as population and human health above. In relation to waste, the EIAR calculates estimated waste production as a result of construction, operation and decommissioning of the development. Waste will arise from staff facilities, sewage, use of concrete, use of hazardous waste, refuelling, packaging, metals and

excavated materials. Mitigation is set out in section 13.10.6-7 and relates to mitigation already set out with respect to water above in this EIA, and measures to limit the production of, and manage the disposal of, waste. No significant residual effects are identified with the implementation of mitigation.

9.63. No cumulative impacts are identified for any of the aforementioned material assets. No significant residual effects are predicted to result in the EIAR with respect to material assets including land use, telecommunications, electricity networks, air navigation, quarries, and utilities (gas, water and waste), arising from the project and I concur with this conclusion.

9.64. Material assets (traffic and transport)

9.65. Chapter 15 of the EIAR addresses 'Traffic and Transport'. This sets out a description of the project with respect to transportation considerations and identifies any sensitive receptors to transportation impacts. Road access to the site is considered from section 15.3.3 and includes a detailed description of the vehicular route to the site and how access would take place from the N22, utilising an existing forestry access that is proposed to be upgraded as part of works under the appeal scheme. Photos are also included to illustrate the access point. The EIAR states that when exiting the site, vehicles associated with turbine delivery will exit and turn left onto the N22, then turn right at the northern end of the existing island junction at Cumeenavrick and complete a 180 degree turning manoeuvre and continue on the N22. Signage is proposed to aid enforcement of this arrangement.

9.66. Existing traffic volumes are described from section 15.3.6 with average counts described from 2019 and 2022. Predicted traffic volumes are also described for the assumed construction year 2026, up to 2030. The total number of HGV loads and abnormal loads associated with the project is estimated to be 3,040. These movements would take place over a 21 month period, with an estimated maximum peak of 359 trips during month 10, with an average of 16 HGV trips per a day in this period. For staff worker / light good vehicle movements, it is estimated that 60 trips a day would result. Overall, the EIAR concludes that the effects on the local road network during construction associated with HGV trips can be predicted to be direct, negative, negligible to minor (depending upon the section of road as detailed in the EIAR section 15.5.3), and short-term in nature. Negligible to low impact is also

predicted with respect to movements associated with staff workers. No significant impact is predicted with respect to air quality, noise / vibration, pedestrians / vulnerable road users, driver delay and severance. Potential nuisance arising from debris from HGVs leaving the site, such as mud, stones etc. is predicted to generate direct, negative, minor, short-term effect in the absence of mitigation. During operation, while the wind farm will normally be unmanned, regular visits to the site will be necessary for maintenance and routine inspections, generally attracting 1-2 visits to the site per a week. More intensive visits would be required in the case of turbine breakdown or repair. Impact is predicted to be imperceptible upon traffic during normal operational times, however if more major works are required to turbines, slight, temporary, short-term effects would result. Impact during decommissioning would be less than that during construction phase.

- 9.67. Mitigation is set out in section 15.6 of the EIAR. A Traffic Management Plan is attached to the CEMP for the project. With respect to access and egress from the site, the EIAR confirms on page 56 that “All the traffic to the wind farm site will approach from the east such that they turn left at the forest access. All traffic leaving the site will turn left only and, if required, can turn around at Cummeenavrick turning area. Signage and road markings will be provided to facilitate/promote these manoeuvres.” Additional mitigation measures to minimise and control the impact upon traffic and transportation are also outlined.
- 9.68. Cumulative effects are addressed from section 15.7 of the EIAR. At the time of preparing the EIAR, there were six wind farms that are planned for development, but not yet constructed, which will use the N22 and have potential for similar impact during their construction phases. Two of these have planning consent. If the construction phases of the consented but not yet constructed windfarms were to overlap, then there is potential for cumulative effects on the road network from construction traffic and turbine delivery. However, as these developments are already consented, they are likely to be constructed prior to the project subject to this appeal. Such impact is considered to be slight to moderate of short duration. Cumulative effect could arise in the event that repair or replacement works were undertaken at a constructed wind farm during the construction works for the project, however such effect is considered of low probability, slight impact and of short duration. Traffic during the operational periods of Inchamore Wind Farm as well as

neighbouring sites will be low and predicted to be insignificant. It is unlikely that any significant cumulative impact would arise during decommissioning as the operational life of proximate wind farms will vary.

9.69. Overall, the EIAR anticipates that effects of the project upon traffic and transport will be not significant with the application of mitigation measures.

9.70. I specifically address the Local Authorities reason for refusal with respect to traffic in section 7 as part of my planning assessment above which should be read in conjunction with this part of my EIA.

9.71. I concur with the conclusions of the EIAR in relation to traffic and transport impact arising from the proposed development during both construction and operational phases, and I am satisfied that no significant adverse impact is predicted.

9.72. Archaeology and cultural heritage

9.73. The EIAR describes Cultural Heritage in Chapter 14. This describes a detailed description of the archaeological, architectural and cultural heritage of the site and surrounding area. The site contains one field boundary field and an enclosure site, both of which are located within Inchamore townland area between turbines 1 and 2. These are both situated c.150m away from any proposed construction areas. The surrounding 1km study area also contains two archaeological sites of potential or likely Bronze Age date. A review of the landscape extending for 10km from the wind farm site revealed the presence of various extant prehistoric monuments of probable Bronze Age origin which have likely ritual alignments across the wider landscape, and comprise five stone circles, thirteen wedge tombs, two unclassified megalithic structures and one row. One of these has a recorded alignment facing towards the site, a wedge tomb. There is one potential early medieval site located within the study area and comprises a holy well in Inchamore townland, c.670m south of the redline boundary for the project. During field surveys, two potentially previously unrecorded archaeological features noted during inspections c.40m north of turbine 2 are detailed, comprising an upright stone and nearby small arc of surface stones which may form the remains of a potential hut site. These features would remain in situ and are both c.30m outside of the redline boundary. Two farm buildings are shown within the site on the historic OS maps, one has since been levelled and a farmyard is located in its place, while the other is derelict. There is no construction

proposed within 110m of this derelict farm building. There are no designated architectural structures located within the site and no undesignated features of cultural heritage interest within proposed construction areas.

- 9.74. In terms of potential impact, no direct impact upon cultural heritage is identified. There is low potential for the presence of unrecorded archaeological features within construction areas on the site, which requires mitigation to prevent negative effect. With respect to the two recorded archaeological sites within the project site, the settings of these archaeological sites will be subject to short-term, slight, negative indirect impact during the construction phase. No other impact upon recorded archaeological monuments within 1km of the site are predicted. As the project site is located within the Múscraí Gaeltacht area, the arrival of construction works to the area, will result in negligible, indirect, not significant impact on the Irish Language or cultural heritage of the Gaeltacht area during the construction phase. The operational phase of the project will result in no predicted direct physical impact upon known archaeological, architectural and cultural heritage resource. The operational phase will however result in a range of indirect negative visual impacts on the setting of a number of recorded archaeological sites, ranging from not significant to moderate in significance. Overall, while the turbines within the site will be visible from various cultural heritage assets in the surrounding landscape, no likely significant, indirect impacts on examples with notable visual or amenity sensitivities are predicted during the operational phase.
- 9.75. Mitigation is set out in section 14.5 of the EIAR and includes archaeological monitoring, surveys, use of buffer zones and recording of any discovered features, which will be retained in-situ. In addition, any signage erected within the public realm during the construction phase will include Irish and English text. With the application of mitigation, no predicted significant, direct, indirect or cumulative effects are anticipated upon cultural heritage resource (including archaeology).
- 9.76. I concur with the conclusions of the EIAR in relation to cultural heritage and archaeology arising from the proposed development during both construction and operational phases, and I am satisfied that with the application of archaeological mitigation, which is known to be effective, no significant adverse impact is predicted.
- 9.77. Landscape and visual

- 9.78. A landscape and visual impact assessment is described in Chapter 12 of the EIAR. This describes the existing baseline condition of the landscape context for the project site and a wider study area. Areas with a scenic designation under either the Kerry or Cork County Development Plans are addressed in the EIAR. There are 24 viewpoints assessed in order to determine potential effects. Negative effects ranging from imperceptible, neutral, slight to moderate are identified with reference to each relevant viewpoint. In terms of cumulative effect, the contribution of the project to cumulative impact is concluded to be low. There are no significant effects upon landscape and visual impact anticipated as part of the project.
- 9.79. The interaction between the above factors
- 9.80. Chapter 17 of the submitted EIAR is entitled 'Interactions of the foregoing and a summary of mitigation measures'. Table 17.2 of the EIAR highlights the potential for interactions between topic areas. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures contained in the EIAR, I am satisfied that residual impact resulting from interaction between all factors is minimised.
- 9.81. Cumulative impacts
- 9.82. The proposed development would occur in tandem with the development of other sites that are in the area. Such development would reflect land uses envisaged under the city development plan which has been subject to Strategic Environment Assessment. A number of developments in the surrounding area have been specifically identified as being considered in Chapter 1 and Appendix 2.4 of the submitted EIAR.
- 9.83. Each topic chapter in the submitted EIAR has considered cumulative impacts and I have highlighted these where most relevant to my assessment. The potential cumulative impacts primarily relate to nuisances (such as emissions, traffic etc) arising from the construction of the development, with other planned or existing projects, and each of the EIAR chapters has regard to these in the assessment and mitigation measures proposed. It is concluded that the culmination of effects from the planned and permitted development and that currently proposed would not be likely

to give rise to significant effects on the environment, other than those that have been described in the EIAR and considered in this EIA.

9.84. Reasoned Conclusion on the Significant Effects

9.85. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, and the submissions from the planning authority, prescribed bodies and observers in the course of the application and appeal, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

9.86. **Population and human health** – Short term positive economic and employment impact during construction phase, with long-term positive economic effect during operation resulting from a high-quality energy supply. Slight negative impact is anticipated from traffic noise, volume and dust during construction. With the application of mitigation, largely comprising implementation of a Construction Environmental Management Plan, no significant residual effect upon human health / safety is expected. In addition, with the implementation of mitigation, and installation of a blade shadow control system, the project will not result in significant impacts upon population in relation to shadow flicker.

9.87. **Biodiversity** – Slight to moderate significant negative residual effect identified relating to bats and birds, and significant adverse impact resulting from the loss of wet heath and blanket bog habitat. The impact upon bats and birds would not be at a population level. Mitigation measures include control of water quality control; an Ecological Clerk of Works; restricted access to bog and heath; revegetation of bare surfaces; pre-construction surveys; buffer zones; protection of bats; measures to minimise impact upon Kerry Slug; implementation of a Habitat Enhancement Plan; measures to reduce collision risk and monitoring. While the EIAR concludes that the significant effect to wet heath and blanket bog habitat will be adequately compensated through implementation of a Habitat Enhancement Plan for the project, it is recommended in this EIA that turbine T1 is also omitted to ensure that the environmental effects of the proposed wind farm are within acceptable parameters with reference to objective BE 15-2 of the Cork County Development Plan 2022-2028.

- 9.88. **Land, soils, geology, water, air quality or climate** - With the implementation of mitigation through management measures in a Construction Environmental Management Plan, as well as surface water management, there is no risk of significant negative impacts.
- 9.89. **Noise and vibration** – No significant residual effects are predicted with respect to noise and vibration. Mitigation includes adherence to regulations for the control and abatement of noise during construction and the implementation of a Construction Environmental Management Plan.
- 9.90. **Material assets (land use, telecommunications, electricity networks, air navigation, quarries, and utilities)** - Mitigation includes avoidance, implementation of measures through a Construction Environmental Management Plan for the project, aeronautical lighting/communications, and measures to protect water and limit the production of waste. No significant residual effects are predicted to result with respect to material assets including land use, telecommunications, electricity networks, air navigation, quarries, and utilities (gas, water and waste), arising from the project.
- 9.91. **Material assets – traffic and transportation** – Direct, negative, negligible to minor impact, that is short-term, will arise during the construction phase. With respect to mitigation, a Traffic Management Plan is attached to the Construction and Environmental Management Plan for the project. No right turn entry is proposed and mitigation includes signage and road markings to prevent such manoeuvres.
- 9.92. **Archaeology and cultural heritage** – No direct impact upon cultural heritage and low potential for the presence of unrecorded archaeological features on the site. With respect to two recorded archaeological sites within the project site, the settings of these archaeological sites will be subject to short-term, slight, negative indirect impact during the construction phase. Mitigation includes archaeological monitoring, surveys, use of buffer zones and recording of any discovered features, which will be retained in-situ. With the application of mitigation, no predicted significant effects are anticipated upon cultural heritage resource (including archaeology).
- 9.93. **Landscape and visual impacts** – Negative effects ranging from imperceptible, neutral, slight to moderate are identified. Cumulative impact is concluded to be low.

There are no significant effects upon landscape and visual impact anticipated as part of the project.

- 9.94. Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed in this EIA. I also consider that the EIAR is compliant with Article 94 of the Planning and Development Regulations, 2001, as amended.

10.0 Conclusion

- 10.1.1. National, regional and local planning policy all support the provision of renewable energy development. Objectives under the Cork County Development Plan support the provision of renewable energy, including onshore wind to assist in meeting renewable energy targets, namely objectives 13-1 Energy, 13-2 Renewable Energy and ET 13-4: Wind Energy. Objective ET 13-5: Wind Energy Projects, supports a plan led approach to wind energy development with the aim of identifying areas for wind energy development to ensure minimal environmental constraints, including 'Areas Open to Consideration'. The site is located in an area 'Open to Consideration' under the wind strategy in Cork County Development Plan 2022-2028. Wind energy development is open to consideration in these areas subject to demonstrating that they avoid adverse impact.
- 10.2. The proposed wind farm project subject to this appeal has secured appropriate access arrangements to the site (under associated appeal Ref. 317889-23) and therefore I am satisfied that reason for refusal no.2 has been addressed.
- 10.3. With respect to the Local Planning Authority reason for refusal no.1, the proposed development site contains areas of Annex I habitat, the majority of which is in unfavourable (inadequate / bad) condition, with the exception of the location of proposed turbine T1 which is Blanket Bog priority habitat in favourable condition.
- 10.4. I am satisfied that with the omission of proposed turbine T1, the remaining development would be acceptable with reference to Objective BE 15-2 which requires the protection 'where possible' of areas of local biodiversity value, and Objective ET 13-7 which requires wind energy development in areas 'open to consideration' to avoid adverse impact upon locations of significant ecological value. As such, I am recommending that the Board approve permission with a condition

requiring that proposed turbine T1 be omitted from the development. With the removal of T1, I am satisfied that the proposed wind farm accords with all relevant provisions under national, regional and local planning policy.

11.0 Recommendation

11.1. I recommend that planning permission should be GRANTED for the proposed development for the reasons and considerations set down below, and subject to the attached conditions.

12.0 Reasons and Considerations

12.1. The Board made its decision consistent with the:

- Climate Action and Low Carbon Development Act 2015, as amended;
- Climate Action Plan 2024;

And in coming to its decision, the Board had regard to the following:

- European legislation, including of particular relevance:
 - Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directive) which set the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union.
 - EU Renewable Energy Directive 2009/28/EC which aims to promote the use of renewable energy and amending Directive EU/2023/2413 which aims to speed up the EU's clean energy transition.
- National and regional planning and related policy, including:
 - National policy with regard to the development of alternative and indigenous energy sources and minimisation of emissions from greenhouse gases.
 - Wind energy Guidelines: Guidelines for Planning Authorities 2006 and the draft guidelines published in 2019.

- The objectives and targets of the National Biodiversity Action Plan 2023-2030.
- Regional and local planning policy, including:
 - Regional Spatial Economic Strategy for the Southern Region;
 - Cork County Development Plan 2022-2028.
- Other relevant national policy and guidance documents.
- The nature, scale and design of the proposed development as set out in the planning application and the pattern of development in the vicinity.
- The likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European sites.
- The reports of the Local Planning Authority and the further information provided by the applicant to the Local Planning Authority.
- The submissions made on the planning application to the Local Authority and to An Bord Pleanála in connection with the appeal.
- The report and the recommendation of the Inspector, including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

12.2. Appropriate Assessment: Stage 1:

12.3. The Board noted that the proposed wind farm development is not directly connected with or necessary for the management of a European Site. The Board completed an appropriate assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the Screening Report for Appropriate Assessment submitted with the application and the report and screening assessment completed by the Inspector. The Board agreed with the inspector's assessment and conclusion that the European Sites for which there is potential for significant effects are Killarney National Park, Macgillicuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore

Mountains SPA. The Board concluded, in agreement with the inspector, that Appropriate Assessment is required for these European Sites.

12.4. Appropriate Assessment Stage 2:

- 12.5. The Board considered the Natura Impact Statement and associated documentation submitted with the application and appeal, the mitigation measures contained therein, the submissions and observations on file, and carried out an Appropriate Assessment of the implications of the proposed wind farm development for European Sites in view of the conservation objectives for the Killarney National Park, Macgillycuddy's Reeks & Caragh River Catchment SAC and Mullaghanish to Musheramore Mountains SPA. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment and to allow it to reach complete, precise and definitive conclusions for Appropriate Assessment.
- 12.6. In completing the assessment, the Board considered, in particular, the likely direct and indirect impacts arising from the proposed development, both individually and in combination with the other plans and projects (including all aspects of the entire windfarm project as addressed in the Inspector's assessment) and taking into account the mitigation measures which are included as part of the current proposal, in view of the conservation objectives for the European Sites.
- 12.7. The Board accepted and adopted the Appropriate Assessment carried out in the inspector's report with respect to the potential effects of the proposed development on the integrity of the aforementioned European Sites, having regard to the Sites' conservation objectives.
- 12.8. In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, (including all aspects of the entire windfarm project as addressed in the inspector's assessment) would not adversely affect the integrity of European Sites, in view of the Sites' conservation objectives of those Sites and there is no reasonable scientific doubt as to the absence of such effects.
- 12.9. This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects of relevance, (including all aspects of the entire windfarm project as addressed in the inspector's

assessment) and took into account all submissions received during the course of the application.

12.10. Environmental Impact Assessment

12.11. The Board completed an Environmental Impact Assessment of the proposed development, taking into account:

- (a) The nature, scale, location and extent of the proposed development;
- (b) The Environmental Impact Assessment Report and associated documentation submitted with the application;
- (c) The submissions received during the course of the application; and
- (d) The Inspector's report.

12.12. The Board considered that the Environmental Impact Assessment Report supported by the documentation submitted by the applicant during the course of the application, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report, and associated documentation submitted by the applicant and submissions made in the course of the planning application.

12.13. Reasoned Conclusion of the Significant Effects:

12.14. The Board considered that the Environmental Impact Assessment Report supported by the documentation submitted by the applicant during the course of the application, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below.

12.15. The main significant effects, both positive and negative, are:

12.16. **Population and human health** – Short term positive economic and employment impact during construction phase, with long-term positive economic effect during operation resulting from a high-quality energy supply. Slight negative impact is anticipated from traffic noise, volume and dust during construction. With the application of mitigation, largely comprising implementation of a Construction Environmental Management Plan, no significant residual effect upon human health / safety is expected. In addition, with the implementation of mitigation, and installation of a blade shadow control system, the project will not result in significant impacts upon population in relation to shadow flicker.

12.17. **Biodiversity** – Slight to moderate significant negative residual effect identified relating to bats and birds, and significant adverse impact resulting from the loss of wet heath and blanket bog habitat. The impact upon bats and birds would not be at a population level. Mitigation measures include control of water quality control; an Ecological Clerk of Works; restricted access to bog and heath; revegetation of bare surfaces; pre-construction surveys; buffer zones; protection of bats; measures to minimise impact upon Kerry Slug; implementation of a Habitat Enhancement Plan; measures to reduce collision risk and monitoring. While the EIAR concludes that the significant effect to wet heath and blanket bog habitat will be adequately compensated through implementation of a Habitat Enhancement Plan for the project, it is recommended in this EIA that turbine T1 is also omitted to ensure that the environmental effects of the proposed wind farm are within acceptable parameters with reference to objective BE 15-2 of the Cork County Development Plan 2022-2028.

12.18. **Land, soils, geology, water, air quality or climate** - With the implementation of mitigation through management measures in a Construction Environmental Management Plan, as well as surface water management, there is no risk of significant negative impacts.

12.19. **Noise and vibration** – No significant residual effects are predicted with respect to noise and vibration. Mitigation includes adherence to regulations for the control and abatement of noise during construction and the implementation of a Construction Environmental Management Plan.

- 12.20. **Material assets (land use, telecommunications, electricity networks, air navigation, quarries, and utilities)** - Mitigation includes avoidance, implementation of measures through a Construction Environmental Management Plan for the project, aeronautical lighting/communications, and measures to protect water and limit the production of waste. No significant residual effects are predicted to result with respect to material assets including land use, telecommunications, electricity networks, air navigation, quarries, and utilities (gas, water and waste), arising from the project.
- 12.21. **Material assets – traffic and transportation** – Direct, negative, negligible to minor impact, that is short-term, will arise during the construction phase. With respect to mitigation, a Traffic Management Plan is attached to the Construction and Environmental Management Plan for the project. No right turn entry is proposed and mitigation includes signage and road markings to prevent such manoeuvres.
- 12.22. **Archaeology and cultural heritage** – No direct impact upon cultural heritage and low potential for the presence of unrecorded archaeological features on the site. With respect to two recorded archaeological sites within the project site, the settings of these archaeological sites will be subject to short-term, slight, negative indirect impact during the construction phase. Mitigation includes archaeological monitoring, surveys, use of buffer zones and recording of any discovered features, which will be retained in-situ. With the application of mitigation, no predicted significant effects are anticipated upon cultural heritage resource (including archaeology).
- 12.23. **Landscape and visual impacts** – Negative effects ranging from imperceptible, neutral, slight to moderate are identified. Cumulative impact is concluded to be low. There are no significant effects upon landscape and visual impact anticipated as part of the project.
- 12.24. Having regard to the above, the Board is satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment. The Board is satisfied that the reasoned conclusion is up to date at the time of making the decision. The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed and subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself,

and, cumulatively with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting Inspector.

12.25. Proper Planning and Sustainable Development

It is considered that the proposed development would accord with European, national, regional and local planning policy provision. The Board was satisfied that an approval for the proposed development would be consistent with the national climate ambitions and with the relevant provisions of the Climate Action Plan 2024. Furthermore, the Board has performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015. The Board considered that by reason of scale, form and extent, that, subject to compliance with the following conditions, the proposed development would be in accordance with the relevant provisions of the Cork County Development Plan 2022-2028, would not seriously injure the visual amenities of the area, or of property in the area, would be acceptable in terms of traffic safety and would constitute an appropriate form of development at this location. The proposed development, would therefore, be in accordance with the proper planning and sustainable development of the area. In coming to this conclusion, specific regard was had to the Local Planning Authority conclusion that the proposed development would be in material contravention to Objectives Objective BE 15-2 and Objective ET 13-7 of the Cork County Development Plan 2022-2028.

The Board considered that in light of the condition of existing habitats on the site, in particular the unfavourable condition of habitats proximate to proposed turbines T2 and T3, and the favourable condition of the priority Annex I habitat proximate to proposed turbine T1, that the proposed development would positively respond to the aforementioned objectives with the omission of turbine T1, as well as all other relevant policies and objectives under the Development Plan.

The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000 (as amended), the grant of permission in material contravention of the Cork County Development Plan 2022-2028 would be justified for the following reasons and consideration:

In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended):

The proposed development is considered to be of strategic and national importance with respect to the provision of renewable energy.

In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended):

Permission should be granted having regard to European Renewable Energy Directives which promote renewable energy provision. The National Planning Framework and specifically National Policy Objective 55 which promotes renewable energy generation. The Climate Action Plan 2024 which seeks to further the national climate objective and the objective of mitigating greenhouse gas emissions. As well as the Regional Spatial & Economic Strategy (RESE) for the Southern Region which includes RPO 95 concerning the implementation of the national renewable energy action plan, as well as leveraging the region as a lead and innovator in sustainable energy generation, and RPO 99 supporting the sustainable development of wind energy at appropriate locations.

13.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as well as the further information response received by Cork County Council dated 6th December 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interests of clarity and of proper planning and sustainable development of the area.</p>
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2.	<p>Turbine referenced as 'T1' together with associated hardstands and access tracks, shall be omitted from the development hereby permitted. For clarity, the permitted wind farm shall relate to four wind turbines only. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of biodiversity.</p>
3.	<p>Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p>Reason: In the interest of protecting the environment and in the interest of public health.</p>
4.	<p>Access arrangements to the site are as approved under appeal reg. ref. ABP-317889-23 and all conditions pertaining to the same.</p> <p>Reason: In the interests of traffic safety.</p>
5.	<p>The measures outlined in the EIAR submitted with the application, shall be carried out by the wind energy developer or operator to eliminate shadow flicker.</p> <p>Reason: In the interest of residential amenity.</p>
6.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p>

	<p>(a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;</p> <p>(b) Location of areas for construction site offices and staff facilities;</p> <p>(c) Details of site security fencing and hoardings;</p> <p>(d) Details of on-site car parking facilities for site workers during the course of construction;</p> <p>(e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;</p> <p>(f) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>(h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;</p> <p>(i) Details of a local community feedback mechanism, where feedback including complaints are received and acted upon by a designated Community Liaison Officer;</p> <p>(j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>(l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;</p> <p>(n) Works to be carried out in accordance with Inland Fisheries Ireland 'Guidelines on protection of fisheries during construction works in and adjacent to waters';</p>
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	<p>(o) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority, with monitoring on a daily basis of all watercourses in or adjacent to works areas;</p> <p>(p) Measures to be implemented to minimise the potential for increased soil / peat stability and erosion of soils, with monitoring of the same.</p> <p>Reason: In the interest of amenities, public health and safety and environmental protection.</p>
7.	<p>Site development and building works shall be carried out between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority and in accordance with measures outlined in the EIAR.</p> <p>Reason: To safeguard the amenity of property in the vicinity.</p>
8.	<p>Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the relevant Section of the Council for such works and services. Prior to the commencement of development, the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon completion of the development a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.</p> <p>Reason: In the interest of public health and surface water management.</p>
9.	<p>The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all</p>

	<p>site clearance works, peat removal / topsoil stripping, groundworks, dredging, tree removal, and/or the implementation of agreed preservation in-situ measures associated with the development. Prior to the commencement of such works the archaeologist shall consult with and forward to the Local Authority archaeologist or the NMS as appropriate a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation [e.g preservation in-situ or by record/excavation].</p> <p>The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring, and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.</p> <p>Reason: To ensure the continued preservation [either in situ or by record] of places, caves, sites, features or other objects of archaeological interest</p>
10.	<p>Prior to the commencement of development, the developer shall submit to the and agree in writing with the planning authority, details of an obstacle warning light scheme which can be visible to night vision equipment.</p> <p>Reason: In the interest of aviation safety.</p>

11.	<p>Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Subsequently the developer shall inform the planning authority [and the Irish Aviation Authority] of the co-ordinates of the as constructed positions of the turbines and the highest point of the turbines (to the top of the blade spin).</p> <p>Reason: In the interest of air traffic safety.</p>
12.	<p>The following design requirements shall be complied with:</p> <ul style="list-style-type: none"> (a) The wind turbines including masts and blades, and the wind monitoring mast, shall be finished externally in a light grey colour. (b) Cables within the site shall be laid underground. (c) The wind turbines shall be geared to ensure that the blades rotate in the same direction. (d) No advertising material shall be placed on or otherwise be affixed to any structure on the site without a prior grant of planning permission. <p>Reason: In the interest of visual amenity.</p>
13.	<p>The delivery of large-scale turbine components for the construction of the wind farm shall be managed in accordance with a Construction Traffic Management Plan (CTMP), which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of the road network to be used by construction traffic, including over-sized loads, detailed proposals for 'Access Point' sightlines (including those to be retained after the construction phase), and detailed arrangements for the protection of bridges, culverts or other structures to be traversed, as may be required. The plan should also contain details of how the developer intends to engage with and notify the local community in advance of the delivery of oversized loads.</p>

	Reason: In the interest of public safety and residential amenity.
14.	<p>On full or partial decommissioning of the turbines or if the turbines cease operation for a period of more than one year, the mast and the turbine concerned shall be removed and all decommissioned structures shall be removed, and foundations covered with soil to facilitate re-vegetation, within three months of decommissioning.</p> <p>Reason: To ensure satisfactory reinstatement of the site upon cessation of the project.</p>
15.	<p>In the event that the proposed development causes interference with telecommunications signals, effective measures shall be introduced to minimise interference with telecommunications signals in the area. Details of these measures, which shall be at the developer's expense, shall be submitted to, and agreed in writing with, the planning authority prior to commissioning of the turbines and following consultation with the relevant authorities.</p> <p>Reason: In the interest of protecting telecommunications signals and of residential amenity.</p>
16.	<p>The Habitat Enhancement Plan shall be implemented in accordance with the commitments outlined therein.</p> <p>Reason: In the interest of biodiversity.</p>
17.	<p>Measures outlined in the submitted Kerry Slug Management Plan to be implemented.</p> <p>Reason: In the interest of biodiversity.</p>
18.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or</p>

	<p>such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of traffic safety and the proper planning and sustainable development of the area.</p>
19.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure satisfactory reinstatement of the site.</p>
20.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the</p>

	<p>planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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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.

Rachel Gleave O'Connor
Senior Planning Inspector

18th December 2024