



An  
Bord  
Pleanála

## Inspector's Report ABP-322004-25

<b>Development</b>	Construction of an air insulated switchgear (AIS) extension to Derrycarney 110kV substation, two independent power provider (IPP) buildings, two transformers, grid connection, associated infrastructure and all associated works.
<b>Location</b>	Lumcloon, Cloghan, County Offaly
<b>Planning Authority</b>	Offaly County Council
<b>Planning Authority Reg. Ref.</b>	24/60485
<b>Applicant(s)</b>	Derrycarney Solar Limited.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Kieran Tarpey.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	9 <sup>th</sup> May 2025.
<b>Inspector</b>	Heidi Thorsdalen

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## **1.0 Site Location and Description**

### **1.1. Site Location and Description**

- 1.1.1. The site (grid reference 613789E 719612N) is located along the R357 and L70099 (Millbrook Road) in the townland of Lumcloon, approximately 5.6km east of Cloghan in County Offaly. The site is located within, and adjacent to, the existing Derrycarney 110kV Substation and Lumcloon Power Limited BESS facility. The site is accessed from the R357.
- 1.1.2. The site is generally flat, with existing ground levels averaging out at 46.5 mAOD. It consists of Derrycarney 110kV substation and brownfield land which formed part of the former ESB Ferbane peat fired power station site (closed 2001, decommissioned 2004). The Silver River is located east of the site, it flows north into the Brosna River, which in turn flows into the River Shannon. An open drainage channel runs along the northern boundary adjacent to the R357. The site is surrounded by agricultural fields and large parcels of cutaway bogland and forestry. The nearest residential dwelling is directly west of the site, approximately 25m.
- 1.1.3. Derrycarney 110kV Substation electrically connects Shannonbridge 110kV substation to the Portlaoise 110kV substation and Shannonbridge 110kV substation with Portlaoise 110kV substation. The substation also connects the existing Lumcloon Power Limited BESS facility via an existing IPP building and grid transformer.
- 1.1.4. The nearest European sites are Ferbane Bog Special Area of Conservation (SAC) approximately 6km to the north of the site and Moyclare Bog SAC located approximately 6.9km to the northwest. The Grand Canal proposed Natural Heritage Area (pNHA) is located c. 1.6km north of the site and pNHA Lough Bora is located c. 2.3km southeast.

### **1.2. Application Submission**

- 1.2.1. The application, in addition to planning application drawings, is accompanied by the following documents:
  - Planning & Environmental Considerations Report (Halston, November 2024).

- Report for the Purpose of Appropriate Assessment Screening (Halston, November 2024).
- Surface Water Drainage (Halston, November 2024).

## 2.0 Proposed Development

### 2.1. The proposed development comprises:

- Installation of additional air insulated switchgear (AIS) electrical apparatus to facilitate connection to, and extension of, the busbar from the existing Derrycarney AIS substation.
- Installation of four new 110kV bays consisting of busbar disconnects, sectionalisers, circuit breakers, line traps, conductors, surge arrestors, capacitors, lightning masts and other electrical apparatus.
- Installation of two grid transformers.
- Construction of two single-storey independent power producer (IPP) control buildings which will contain control rooms and electrical cabinets.
- Ancillary site development works including site preparation works, hardstanding, internal access tracks, temporary construction compound, underground cabling and earthgrid, surface water drainage from impervious surfaces including a soakaway, fencing to which will integrate the proposed extension with the existing substation and match existing form (palisade, post and rail and gates), gates, lightning poles, and landscaping as required to facilitate the development.
- Access to the site is proposed through an upgraded existing entrance onto the R357 regional road consented under planning reference 23/60111 and through the existing Derrycarney 110kV Substation entrance.

### 2.2. The proposed development will facilitate connection of consented renewable energy and energy storage developments ABP-316303-23 and 23/60111 to the national grid.

### 2.3. **Proposed EirGrid Compound:** Site Layout dwg. DCY-HAL-SS-XX-DR-PL-1010 shows a c. 6,278m<sup>2</sup> area extension to the EirGrid compound. The works include new

compound perimeter palisade fencing, removal of a section of existing fencing and an extension of the existing internal EirGrid compound access road. Proposed finished ground level (FGL) is 46.5 mAOD and the compound will largely comprise of clean permeable stone fill.

- 2.4. **Proposed IPP Compound:** The two IPP buildings for the permitted BESS and Solar developments will have a 179.5m<sup>2</sup> floor area each and ridge level heights of 6.775m above FGL. The compound includes a solar grid transformer and a BESS grid transformer, positioned within bunded structures and surrounded by fire wall. The access road to the IPP compound is an extension of the access road permitted for the BESS Facility (reg. ref. 23/60111). Seven car parking spaces are proposed within the compound. Palisade fencing is proposed around the IPP compound with gated access from the permitted BESS facility. Proposed finished ground level (FGL) is 46.5 mAOD and the compound will largely comprise of clean permeable stone fill.
- 2.5. **External lighting** will be as per EirGrid specifications, and in accordance with BS5489-1:2020 and Lighting Class P4.
- 2.6. **Drainage:** Access road to be drained using filter drains, run longitudinally along the road and allow the stormwater to infiltrate into the surrounding soils. Collected stormwater from impervious areas will be directed to a petrol separator and below ground stormwater attenuation tank (proposed capacity of 23.5m<sup>3</sup>) before discharge to Silver River via proposed hydrotank and headwall. A precast concrete headwall will be installed along the western bank of the Silver River, c. 150m south of Lumcloon Bridge. No alteration to drainage patterns proposed.
- 2.7. **Water / wastewater:** No connections proposed. No abstraction of groundwater proposed. No additional loading to the existing on-site foul effluent treatment system.
- 2.8. **Waste:** Construction materials requiring disposal off site will be done so in accordance with all Irish waste legislative requirements. A small amount of both solid and liquid waste will be produced at the facility. Waste oils, solvents and paints will be stored in a temporary bunded area prior to transport off-site by a license contractor.
- 2.9. **Soil:** All excess soil arising from excavations will be used within the site where possible. Soil will be screened (HWOL3 assessment) for the presence of anthropogenic contamination. Existing berm of non-hazardous soil within the site is

from the BESS construction and will be used to form a 3.0m high soil berm along the western boundary as consented under reg. ref. 23/60111.

2.10. **Construction Compound:** Temporary construction compound / set down area shown south of proposed extension to the EirGrid compound and west of the proposed IPP compound.

2.11. **Construction access** will be via R357 and L70099. The main components are modular.

2.12. **Duration:** Construction phase estimated to last 6 months.

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. A notification of the decision to grant planning permission was issued by Offaly County Council by Order dated 6<sup>th</sup> February 2025 with 10 conditions attached. Most conditions are standard in nature for this type of development, however the following should be noted:

- Condition 2: Specifications relating to public roads and junction visibility.
- Condition 3: Specifications relating to drainage.
- Condition 5: Noise limits.
- Condition 7: Specifications for fence and building.
- Condition 9: Cash deposit/bond to secure reinstatement (if required) of the specified bog sections of R-357.

#### 3.2. Planning Authority Reports

3.2.1. Planning Report dated 7<sup>th</sup> February 2025 forms the basis of the decision and is summarised, as follows:

- Matters raised in observation not considered a planning matter and shall be handled by the ESB Networks/EirGrid once the substation has been taken into their charge and becomes a public asset.

- Policies CAEP-01, CAEP-04 and CAEP-05 of the Offaly County Development Plan 2021-2027: The proposed development is acceptable as it would result in the expansion of the electricity transmission and distribution grid.
- Not contrary to Regional Space Economic Strategy (RSES).
- Siting and design considered acceptable having regard to the current use of the site, the surrounding landscape and the scale and form of the proposed structures.
- Potential visual and noise impacts will be mitigated by the 3m high soil berm permitted under reg. ref. 23/60111 and to be constructed near the western boundary of the development lands.
- No roads and traffic concerns raised. Condition seeking agreement on bond to cover any repairs required to R-357 as a result of development HGV traffic.
- Appropriate Assessment (AA) Screening (Appendix A): AA is not required. There would be no likely significant impact on the European Sites from the proposed development due to the scale of the proposed development and the separation distance between the subject site and European Site.
- Environmental Impact Assessment (EIA): EIAR can be screened out as the proposed development does not fall under a category of development which would automatically require an EIA or constitute a sub-threshold development as per Schedule 5 of the Planning and Development Regulations 2000, as amended.
- It is considered that subject to conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and will be in accordance with the proper planning and sustainable development of the area.

### 3.2.2. Other Technical Reports

- Environment & Water Services (30<sup>th</sup> January 2025): No objection subject to conditions pertaining to construction works licences, surface water, construction foul water, waste management, construction noise and dust, and maintain/preserve existing hedgerow/woodland/trees.



- Area Engineer (17<sup>th</sup> January 2025): No objection subject to conditions pertaining to public roads, junction visibility, haulage route restrictions and surveys and construction traffic management.
- Chief Fire Officer (18<sup>th</sup> December 2024): No objection.

### 3.3. Prescribed Bodies

3.3.1. None.

### 3.4. Third Party Observations

3.4.1. One observation received from Kieran Tarpey, Entrust Planning and Environmental, which also forms the premise of this appeal. Support for the proposal indicated, and condition requested to be attached to any grant of permission to allow for the optimum connection of other renewable energy projects in the area to help ensure relevant national targets being achieved. See **Section 6.1** below.

## 4.0 Planning History

4.1. The following planning history relates to the proposed development and/or the site:

- **ABP-320634-24:** Pre-application determination (October 2024), the proposed extension of the existing Derrycarney 110kV Substation does not fall within the scope of Section 182A of the Planning and Development Act 2000, as amended.
- **23/60111:** Permission granted in March 2024 for an extension comprising 112 modular battery containers and medium voltage power stations (MVPS) and associated development to the existing BESS facility (consented under Planning Ref 19/55).
- **21/778:** Withdrawn application, for an extension to the existing BESS facility.
- **20/444:** Permission granted in December 2020 for the construction of a 33kV substation and substation compound with associated electrical infrastructure, including transformer, and grid connection into the permitted Derrycarney 110kV substation. Status: Operational.

- **19/55:** Permission granted in May 2019 for alterations to development of a BESS facility and 110kV substation granted permission under reg. ref. 17/194, to provide 100MW of system support services to the electricity grid at Lumcloon, Cloghan, Co. Offaly. Status: Operational.
- **17/194:** Permission granted in August 2017 for the development of a BESS facility designed to provide 100mw of system support services to the electricity grid and a 110kV substation compound connecting into existing 110kV overhead lines at Lumcloon, Cloghan, Co. Offaly.
- **19.PA0015 & EX/14019:** Permission granted in March 2010 for the construct and operate a gas fired electricity generating station, capable of operating in open cycle or combined cycle modes at Lumcloon, Cloghan, Ferbane, Co. Offaly. An extension to the duration of the permission was approved until 11<sup>th</sup> March 2020.
- **07/1732 & EX/13025:** Planning permission granted in May 2008 for an enterprise park at Lumcloon, Ferbane, Co. Offaly. An extension to the duration of the permission was approved until 19<sup>th</sup> June 2018.

#### 4.2. Planning history in the vicinity of the site:

- **23/60071:** Permission granted in July 2024 for a Solar Photovoltaic (PV) farm and BESS facility at Lumcloon, Co. Offaly.
- **ABP-316303-23 (reg. ref. 23/20):** Permission granted in April 2024 for Solar Photovoltaic (PV) Energy Development on the western parcel of land (Zone 1) with underground grid connection to Derrycarney 110kV Substation. Planning permission refused for Solar PV development on the eastern parcel of land (Zone 2).
- **19/555:** Permission granted in March 2020 for the installation of approximately 8km of underground electricity line with a capacity of up to 38kV from the permitted Cloghan wind farm substation PL19.244053 (reg. ref. PA14/188).

## 5.0 Policy Context

### 5.1. European and National Policy, Legislation and Guidelines

- 5.1.1. **Renewable Energy Directive III (RED III):** The Directive on the Promotion of the Use of Energy from Renewable Sources (Directive EU 2018/2001) (RED III) requires that 45% of energy produced in Europe is from renewable sources. The Directive also focuses on the development of essential infrastructure such as transmission and distribution grid infrastructure.
- 5.1.2. **Electricity Directive:** The Directive on common rules for the internal market for electricity (Directive 2019/944, amending Directive 2012/27) lays down key rules relating to the organisation and functioning of the electricity sector including third-party access to transmission and distribution infrastructure and aims to ensure a high degree of security of supply and a smooth transition towards a sustainable low-carbon energy system.
- 5.1.3. **Climate Action Plan (CAP) 2025:** CAP25 refines and updates the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings and it should be read in conjunction with CAP24. CAP25 provides a roadmap of actions which will ultimately lead to meeting our national climate objective of pursuing and achieving, by no later than the end of the year 2050 (as committed to in the Climate Action and Low Carbon Development Act 2021, as amended), the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It aligns with the legally binding economy-wide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022. A renewables-led system is at the core of Ireland's plan to reduce emissions in the electricity sector, protect energy security, and ensure economic competitiveness.
- 5.1.4. Key electricity measures and action as per CAP 24, as set out in Chapter 12 include *“increasing renewable generation to supply 80% of demand by 2030 through the accelerated expansion of onshore wind and solar energy generation, developing offshore renewable generation, and delivering additional grid infrastructure.”*
- 5.1.5. **Climate Action and Low Carbon Development Act, 2015, as amended:**

The Act commits Ireland to the objective of becoming a carbon-neutral economy by 2050, reducing emissions by 51% by the end of the decade. Section 17 of the Climate Action and Low Carbon Development (Amendment) Act, 2021 amends the principle act such that Section 15(1) requires:

“(1) A relevant body shall, in so far as practicable, perform its functions in a manner consistent with—

- a) the most recent approved climate action plan,
- b) the most recent approved national long term climate action strategy,
- c) the most recent approved national adaptation framework and approved sectoral adaptation plans,
- d) the furtherance of the national climate objective, and
- e) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State”.

“Relevant body” means a prescribed body or a public body.

#### **5.1.6. Project Ireland 2040: National Planning Framework (NPF) First Revision (April 2025)**

National Strategic Outcome NSO8: seeks a transition to a carbon neutral and climate resilient society. Emphasis on new energy systems and transmission grids being necessary for a more distributed, renewables-focused energy generation system in achieving Climate Action and Low Carbon Development (Amendment) Act 2021 targets.

The NPF includes policy support for the development and upgrading of electricity grid infrastructure. Emphasis is place on the recognising that the renewable electricity generation cannot be considered in isolation from its means of connection to both the national electricity transmission and lower-voltage distribution grids.

- National Policy Objective 71: Support the development and upgrading of the national electricity grid infrastructure, including supporting the delivery of renewable electricity generating development.
- National Policy Objective 72: Support an all-island approach to the delivery of renewable electricity through interconnection of the transmission grid.

Regional Renewable Electricity Capacity Allocations are set out in Table 9.1. The Eastern and Midlands region is to deliver 25% and 45% of the national share in onshore wind and solar capacity, respectively, by 2030. The NPF sets out that the delivery of these targets will require the development and expansion of the electricity grid, at a national and local level, in a coordinated manner.

- 5.1.7. **National Development Plan (NDP) 2021-2030:** The NDP sets out investment priorities underpinning the implementation of the NPF. Chapter 13 deals with NSO 8 Transition to a Climate-Neutral and Climate Resilient Society. Public capital investment choices must contribute to a 51% reduction in greenhouse gas emissions by 2030 and lay the pathway to achieve net-zero greenhouse gas emissions by 2050.
- 5.1.8. **National Biodiversity Action Plan 2023 – 2030 (NBAP):** Ireland's 4th NBAP sets the biodiversity agenda for the period 2023 – 2030. The NBAP has a list of Objectives which promotes biodiversity as follows, Objective 1 Adopt a whole of government, whole of society approach to biodiversity; Objective 2 Meet urgent conservation and restoration needs; Objective 3 Secure nature's contribution to people; Objective 4 Enhance the evidence base for action on biodiversity; Objective 5 Strengthen Ireland's contribution to international biodiversity initiatives.
- 5.1.9. **Long-term Strategy on Greenhouse Gas Emissions Reduction (2024)** sets out indicative pathways, beyond 2030, towards achieving carbon neutrality for Ireland by 2050.
- 5.1.10. **Policy Statement on Security of Electricity Supply (November 2021)** sets out a number of updates to national policy in the context of the Programme for Government commitments relevant to the electricity sector, planning authorities and developers.
- 5.1.11. **National Energy Security Framework (April 2022)** outlines the structures which are in place to monitor and manage our energy supplies and plans which are in place to deal with energy security emergencies should they arise.
- 5.1.12. **National Energy and Climate Action Plan (2021-2030)** sets out in detail Ireland's objectives, policies and measures regarding EU's five energy dimensions of decarbonisation, energy efficiency, energy security, internal energy market, and

research, innovation and competitiveness, and pursues a trajectory of emissions reduction nationally which is in line with reaching net zero in Ireland by 2050.

5.1.13. **National Energy Security Framework (April 2022):** The Framework addresses Ireland's energy security needs in the context of the war in Ukraine. It coordinates energy security work across the electricity, gas and oil sectors. The Framework takes account of the need to decarbonise society and the economy, and of targets set out in the Climate Action Plan to reduce emissions.

5.1.14. **Ireland's Transition to a Low Carbon Energy Future 2015-2030:** This sets out the energy policy update up to 2030 and vision for transforming Ireland's fossil fuel-based energy sector to a clean low carbon system.

## 5.2. **Regional Spatial and Economic Strategy (RSES), 2019-2031**

The Eastern and Midlands RSES sets out the commitment to become a low-carbon and circular region. In terms of grid, there is the focus on strengthening all-island energy infrastructure and interconnection capacity. It is recognised that developing the grid in the region will enable the transmission system to safely accommodate more diverse power flows from renewable generation and also to facilitate future growth in electricity demand. There is support for the development of enhanced electricity networks including new transmission infrastructure projects under EirGrid's (2017) Grid Development Strategy.

## 5.3. **Offaly County Development Plan 2021-2027**

5.3.1. The relevant plan to this assessment is the Offaly County Development Plan 2021-2027 which came into effect on 22nd October 2021. Chapter 3 relates to the Climate Action and Energy, and the following policies of particular relevance to energy storage and grid infrastructure are noted:

- CAEP-01 It is Council policy to support and facilitate the development, reinforcement, renewal and expansion of the electricity transmission and distribution grid, including the development of new lines, pylons and substations as required to provide for the future physical and economic development of Offaly.

- CAEP-02 It is Council policy to require that, in all new developments, local services such as medium and low voltage electricity cables shall be undergrounded, with multiple services accommodated in shared strips underground and that access covers are shared, whenever possible.
- CAEP-04: It is Council policy to support EirGrid's Implementation Plan 2017 – 2022 and Transmission Development Plan 2019 and any subsequent plans prepared during the plan period that facilitate the timely delivery of major investment projects subject to appropriate environmental assessment and the outcome of the planning process.
- CAEP-05 It is Council policy to support the reinforcement and strengthening of the electricity transmission and distribution network to facilitate planned growth and transmission/ distribution of a renewable energy focused generation across the major demand centres. This includes:
  - Facilitating trans-boundary networks into and through the County and Region to ensure the Regional Spatial and Economic Strategy can be delivered in a sustainable and timely manner;
  - Facilitate the delivery of the necessary integration of transmission network requirements to allow linkages of renewable energy proposals to the electricity transmission grid in a sustainable and timely manner; and
  - Support the safeguarding of strategic energy corridors from encroachment by other developments that could compromise the delivery of energy networks.
- CAEP-06: It is Council policy to promote the use of efficient energy storage systems and infrastructure that supports energy efficiency and reusable energy system optimisation, in accordance with proper planning and sustainable development.
- CAEP-11: It is Council policy to support the transition to a competitive, low carbon, climate-resilient and environmentally sustainable economy by 2050, by way of reducing greenhouse gases, increasing renewable energy, and improving energy efficiency.

5.3.2. Biodiversity and Landscape objectives and policies are contained in Chapter 4, and the following are noted:

- BLP-01 It is Council policy to protect, conserve, and seek to enhance the county's biodiversity and ecological connectivity.
- BLO-02 It is an objective of the Council that no plans, programmes or projects giving rise to significant cumulative, direct, indirect or secondary impacts on European sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall be permitted on the basis of this Plan (either individually or in combination with other plans, programmes, etc. or projects).
- BLO-12 It is an objective of the Council to maintain a riparian zone for larger and smaller river channels based on the Inland Fisheries Ireland updated guideline document, 'Planning for Watercourses in the Urban Environment, a Guide to the Protection of Watercourses through the use of Buffer Zones, Sustainable Drainage Systems, Instream Rehabilitation, Climate / Flood Risk and Recreational Planning'.
- BLP-20 It is Council policy to preserve riparian buffer strips free from development by reserving a minimum of 10 metres either side of all watercourses (measured from top of bank) with the full extent of the protection determined on a case by case basis by the Council, based on site specific characteristics and sensitivities.
- BLP-24 It is Council policy to support the protection and management of existing networks of woodlands, trees and hedgerows which are of amenity or biodiversity value and/or contribute to landscape character, and to strengthen local networks.
- BLP-38 It is Council policy to protect and enhance the county's landscape, by ensuring that development retains, protects and where necessary, enhances the appearance and character of the county's existing landscape.
- BLP-40 It is Council policy to ensure that consideration of landscape sensitivity is an important factor in determining development uses.
  - Figure 4.22 Landscape Classification Areas in County Offaly: The proposed development site is of Low Landscape Sensitivity.



- Table 4.18 Low Sensitivity Areas in County Offaly. Acceptability of Development for consideration: A wide range of development subject to appropriateness / conditions.
- BLP-43 It is Council policy to require a Landscape/Visual Impact Assessment to accompany significant proposals that are likely to significantly affect Key Scenic Views and Prospects as listed in Table 4.21 and Key Amenity Routes as listed in Table 4.22.
  - Table 4.22 Key Amenity Routes in Offaly: R357 Blueball to Shannonbridge.

5.3.3. Economic Development Strategy policies are set out in Chapter 5, and the following are noted:

- ENTP-24 It is Council policy to actively encourage the redevelopment of sites with antecedent uses or disused sites which were formerly ESB plants and Bord na Móna works for enterprise and employment creation.
- REDP-17 It is Council policy to support the development of renewable energy in rural areas, where it is considered appropriate i.e. where it is demonstrated that such development would not result in significant environmental effects. Such development will be assessed on a case-by-case basis.

5.3.4. Water services and Environment policies are set out in Chapter 11, and the following policies are noted:

- ENVP-03 It is Council policy to support the implementation of the Water Framework Directive, the River Basin Management Plan and the Local Authority Waters Programme in achieving and maintaining at least good environmental status for all water bodies in the county. Development proposals shall not have an unacceptable impact on the water environment, including surface waters, groundwater quality and quantity, river corridors and associated woodlands. WFD policies ENV-1 and ENV-02 are also noted.
- ENVP-23 It is Council policy to require that the design of lighting schemes minimises the incidence of light pollution into the surrounding environment. New schemes shall ensure that there is no unacceptable adverse impact on residential or visual amenity and biodiversity in the surrounding area.

- 5.3.5. Development management standards are provided in Chapter 13, and Section 13.9.11 Transport and Infrastructure is of relevance.

#### 5.4. Natural Heritage Designations

- 5.4.1. The site is not located within a natural heritage designated site. The nearest European Sites are Ferbane Bog SAC, approximately 6km to the north of the site, and Moyclare Bog SAC located approximately 6.9km to the northwest. River Shannon Callows SAC and Middle Shannon SPA are located approximately 18.6km downstream of the site. See **Appendix B** for my Appropriate Assessment (AA) Screening.
- 5.4.2. The Grand Canal proposed Natural Heritage Area (NHA) is located c. 1.6km north of the site and Lough Bora pNHA is located c. 2.3km southeast of the site.

### 6.0 The Appeal

#### 6.1. Grounds of Appeal

- 6.1.1. Third party appeal submitted by Kieran Tarpey, Entrust Planning and Environmental. The statement of grounds reiterates the condition sought to be attached to a grant of permission as outlined in the third party submission to the planning application:

*“allow unhindered access for other parties to connect into the proposed extended Derrycarney Substation by way of an underground grid connection through any land under the ownership or control of either the applicant or the landowner of the proposed development and to provide the necessary easements/wayleaves for all future cabling at a reasonable fee which is not to be unreasonably withheld or delayed.*

*Any dispute arising under this proposed condition shall be determined by a single arbitrator to be agreed upon between the parties hereto or failing such agreement to be appointed on the application of either party by the President for the time being of the Law Society of Ireland at the instance of the party first applying to the said President and the provisions of the Arbitration Act 2010 (and any subsequent statutory modifications thereof) shall be applied in the determination of the dispute by the arbitrator.”*

6.1.2. The main reasons for the proposed condition can be summarised as follows:

- The substation will be transferred to ESB Networks / EirGrid in due course and will become a public asset. The land surrounding the proposed substation will not be taken in charge by ESB/EirGrid.
- The appellant wishes to avoid the situation where the proposed development is landlocked from the public road.
- Current policy of ESB/EirGrid is that these public bodies will not resolve or have any involvement in facilitating access to their own substations once taking in charge through private lands.
- This condition is required to allow for optimum connection of other renewable energy projects to help ensure relevant national targets regarding climate change and decarbonising our electricity network area being achieved.
- Telecommunication Masts precedent noted. Common practice to include condition that telecommunication masts is available for all operators, reference to Condition 3 under reg. ref. 23/600:

*“The developer shall provide and make available, on reasonable terms, the mast for the provision of mobile telecommunications antennae of third party licensed mobile telecommunications operators.*

*Reason: In the interests of avoidance of a multiplicity of masts, in the interests of visual amenity and in the interests of the proper planning and sustainable development in the area.”*

## 6.2. Applicant Response

6.2.1. The applicant’s response to the third-party grounds of appeal, can be summarised as follows:

- Requests that the Board does not impose the suggested condition (or any similar condition). The proposed condition is outside the Board’s powers to impose conditions under the 2000 Act, as amended, and is ultra vires.
- No other relevant legal power has been identified by the appellant.

- Unjustified interference with property rights which are protected under Articles 40.3 and 43 of the Irish Constitution.
- Not aware of any policy, guidance, practice note or precedent which provides for a condition of the type proposed. Any justification on the basis of public necessity for such a condition given the implications on planning law would require to be specified by Government policy.
- Not aware of any precedents of unhindered right to use private lands for the purpose of connecting to a public asset being conditioned.
- Telecommunication mast condition (reg. ref. 23/20600) is imposed on the proposed development itself and not on private lands falling outside the redline boundary.
- The application for permission was made on the basis of a letter of consent granted by the landowner. It would not be appropriate to condition any easements or property rights over unidentified private lands falling outside the scope of the permission.
- The proposed condition would not be appropriate, proportionate, reasonable or equitable. In reference to OPR Practice Note 03, the condition is too ambiguous, too vague and practically unworkable. The proposed condition is not relevant to the proposed development, and it is unclear how it would be enforced.
- Agree with the planning authority, in that the grid connection process is handled by ESB Networks / EirGrid once the substation is taken in charge.
- Statutory process for certain authorised entities to gain rights over private lands under the Electricity Regulation Act 1999, as amended.
- The proposed condition seeks to devalue commercial position with regard to connection rights and improve the appellants commercial negotiating position.
- The appellant appears to have a direct commercial interest in the imposition of the proposed condition, planning permission reg. ref. P12/21/8 for a 52.75ha solar farm by Offaly Solar Energy AS Limited of which the appellant is a 100% shareholder.

### 6.3. Planning Authority Response

- 6.3.1. The response from the planning authority refers to the technical reports within the planning application file and requests that the Board support the decision to grant permission in this instance.

### 6.4. Observations

- 6.4.1. None received.

## 7.0 Assessment

### 7.1. Overview

- 7.1.1. Having examined the file, the grounds of appeal, the responses thereto, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the substantive issue in this appeal to be considered is as follows:

- Principle of the development.
- Land access rights for future grid connection to Derrycarney 110kV Substation.
- Other matters.

- 7.1.2. I have addressed Environmental Impact Assessment, Appropriate Assessment Screening and Water Framework Directive Screening below in **Sections 8.0, 9.0 and 10.0**, respectively.

### 7.2. Principle of the development

- 7.2.1. The importance of developing and strengthening all-island grid infrastructures in delivering increased renewable energy and energy storage as part of the transition towards a carbon neutral and climate resilient society is clearly acknowledged at a national, regional and local level. Some of the policies and documents are set out in Section 5.0 above. CAP 25, in conjunction with CAP24, sets out that a renewables-led system is at the core of Ireland's plan to reduce emissions in the electricity

sector, protect energy security, and ensure economic competitiveness and that delivering additional grid infrastructure is essential to increasing the generation to supply 80% of demand by 2030. An all-island approach is supported in NPF's National Policy Objective (NPO) 72 and the development and upgrading of the national electricity grid infrastructure is supported in NPO 71. The Eastern and Midlands region as per Table 9.1 is to deliver 25% of the national onshore wind capacity and 45% of solar capacity by 2030. The need for a coordinated approach, at national and local level, in the expansion of the electricity grid in order to delivery these targets is required. At a regional level, the RSES supports the expansion and upgrading of the grid in the region and to strengthen all-island energy infrastructure.

7.2.2. The Offaly County Development Plan 2021-2027 endorses the national and regional policies in terms of grid infrastructure. The development, reinforcement, renewal and expansion of the electricity transmission and distribution grid are supported in policies CAEP-01, CAEP-04 and CAEP-05. The latter facilitates the delivery of the necessary integration of transmission network requirements to allow linkages of renewable energy proposals to the electricity transmission. Policy CAEP-06 promotes the optimisation of energy efficiency through energy storage and associated infrastructure. CAEP-02 sets out that, where possible, new connections to the grid should be underground.

7.2.3. As outlined previously, the site forms part of the former ESB Ferbane peat fired power station site (closed 2001, decommissioned 2004), and policy ENTP-24 encourages the redevelopment of former ESB plants for enterprise and employment creation. The proposed development will form an extension to existing grid infrastructure, Derrycarney 110kV Substation, and provide grid connection to same for the permitted solar and energy storage developments, references ABP-316303-23 and 23/60111 respectively. Additional operational and permitted renewable energy developments in the immediate area, predominately to the north of the R357, are noted. The layout, scale and character of the proposed development will match the existing infrastructure on site. The site is within an area of Low landscape Sensitivity as per Figure 4.22 and where development in all categories may be considered acceptable as per Table 4.18. The R357 between Blueball and Shannonbridge is identified as Key Amenity Route in Table 4.22. The site is relatively flat and of made ground, and it is not within the flood zone and there is no

history of flooding. Existing vegetation along the boundaries with R357, L70099 and Silver River as well as the permitted 3m high soil berm along the western boundary (reg. ref. 23/60111) are noted. The development site with the exception of surface water drainage equipment is not within the riparian corridor of Silver River. The proposed accesses are as per existing, with minor upgrades to the eastern junction with R357 as permitted under reg. ref. 23/60111 and upgrades/extensions to internal access roads.

- 7.2.4. On the basis of the above, I would concur with the planning authority that the proposal is acceptable in principle in this location and that relevant planning and environmental considerations, subject to conditions can be satisfied. Refer to **Appendix B** and **Appendix C** for AA Stage 1 Screening and WFD Screening, respectively.

### 7.3. **Land access rights for future grid connection to Derrycarney 110kV Substation**

- 7.3.1. As outlined above, the concern raised by the appellant is that the extended substation will be surrounded by private land and landlocked from the public road. Hence, a condition to address access for future underground grid connection to the extended substation for renewable energy developments through land under the ownership/control of the applicant/ landowner of the proposed development is proposed. The planning authority in their response sets out that this is a matter for ESB Networks/EirGrid once the substation has been taken into their charge.
- 7.3.2. Having reviewed the submitted site layout (dwg. DCY-HAL-SS-XX-DR-PL-1010) and visited the site, I note that the fence line of the existing Derrycarney 110kV substation compound (permitted under reg. ref. 19/55) is setback from the R357 by c. 29m and from the L70099 by c. 40m. Existing means of access for the substation is via a shared access with the Lumcloon Power Limited BESS facility off the R357. In addition, there is existing overhead pylon infrastructure located in the land between the substation compound and the L70099. The submitted redline boundary extends to the L70099 and to the R357 at access points, whilst the blue ownership boundary extends to the R357 along the full northern boundary of the site (dwg. DCY-HAL-SS-XX-DR-PL-1000). I can only consider the proposed extension to the substation which forms part of the appeal. In this regard, it is my view, that the

proposed substation extension which is located to the rear (south) of the Derrycarney 110kV Substation does not alter the existing access arrangement to the substation or the setbacks from the surrounding public road network. I further note that the matter of the location of the existing substation compound relative to the public road, and its connection thereto, was not raised by any parties under reg. ref. 19/55.

- 7.3.3. The planning authority as well as the applicant and the appellant have made reference to the extended substation in due course being taken in charge by ESB Networks / EirGrid. Common practice for grid connections is a delivery model where the developer takes responsibility for the planning, design (majority) and the construction programme, and upon energisation, transfers the ownership of the grid connection assets to ESB Networks / EirGrid. This is known as the contestable model, and which appears to be applicable to the proposed development. Specifically, any infrastructure that is required to be operated by EirGrid as the Transmission System Operator (TSO) is required to be taken in charge and the new grid connection as part of the proposed development would become available to other users for connection. In this regard, submitted dwg. DCY-HAL-SS-XX-DR-PL-1010 details the proposed AIS electrical apparatus including four new 110kV bays within an extended EirGrid substation compound, whilst the single user components including the two grid transformers and IPP buildings for the solar and BESS facilities are shown in a separate IPP compound. The access arrangements for the two compounds as noted previously are shown as separate.
- 7.3.4. Having regard to the above, the Commission for Regulation of Utilities (CRU) under Section 34 of the Electricity Regulation Act 1999, as amended gives directions on the terms and condition of access to the transmission and distribution system. CRU's Enduring Connection Policy (ECP) process for grid connection applications is the current pathway to connect to the electricity system for onshore renewables and storage. Grid connection applications are made to the System Operators (SOs) and depending on the maximum export capacity, either to EirGrid as the TSO or ESB Networks as the distribution system operator (DSO). Of note, the grid connection application requires to be accompanied by signed confirmation of landowner consent. Any subsequent application for consent of wayleaves for laying electricity



lines would be to CRU under Section 48 and 49 of the Electricity Regulation Act 1999, and this process also requires relevant landowner consent.

7.3.5. I, therefore, concur with the planning authority that the consenting of a connection to the grid falls within the remit of ESB Networks/EirGrid. I also find that the requirement for landowner consent along a grid connection route as indicated by both the appellant and the applicant is standard practice for both grid connection and Section 48 and/or 49 wayleave applications.

7.3.6. In considering the proposed condition as requested by the appellant, it is my view, that it does not fall within the type of conditions listed under Section 34(4) of the 2000 Act, as amended, or under the Fifth Schedule of the same act. I further note that the appellant has made no reference to the 2000 Act, as amended in this regard.

7.3.7. Section 34(4) of the 2000 Act, as amended gives power to impose:

*“(a) conditions for regulating the development or use of any land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant if the imposition of such conditions appears to the planning authority*

*(i) to be expedient for the purposes of or in connection with the development authorised by the permission, ...”*

7.3.8. I do not consider land access rights to facilitate future underground grid connection by one or more third parties to be necessary to the authorisation of the proposed development. The proposed condition would not further regulate or modify the proposed development to make it acceptable from the perspective of the proper planning and sustainable development of the area. As noted above, any future grid connection to the extended substation falls under the framework of the ECP.

7.3.9. The Section 28 guidelines, Development Management Guidelines for Planning Authorities (2007) identifies six basic criteria for imposing a condition. In this regard, I do not consider the matter of land access rights by third parties to the extended substation to be relevant to planning or relevant to the development. Nor would the proposed condition, notwithstanding the redline boundary extending to the public road, be considered reasonable or expedient to the purpose given the land access

which is sought is of no relevance to the development. As set out above, the proposed grid connection point when transferred to ESB Networks / EirGrid would become available for connection by other users through the grid connection application process as per the terms and condition of the ECP, any landowner consent for achieving land access to the substation is not within the remit of the 2000 Act, as amended and the planning system. Also as noted above, concerns regarding the setback of the substation compound, a future public asset, from the public road network were not raised under reg. ref. 19/55. The scope of the condition appears to seek unhindered and unlimited access through the identified land, and for an open-ended duration time, as long as it is for the purposes of underground cabling associated with any future grid connection for renewable developments. I do not consider this to be precise or enforceable, and it is not necessarily within the legal authority of the developer to comply with.

7.3.10. The OPR's Practice Note PN03 Planning Conditions (2022), Section 3.16 is of relevance, this clearly sets out that *"there is no provision in planning legislation that allows for the imposition of a condition which would require landowners to allow other parties access through their private lands e.g. a condition requiring access through adjoining privately owned lands is not appropriate."* In my view, the proposed condition is considered unreasonable and unlawful.

7.3.11. In terms of precedents, the appellant has referenced a telecommunication masts condition which specifically requires the developer, on reasonable terms, to provide and make available the mast for the provision of mobile telecommunications antennae of third party licensed mobile telecommunications operators (Condition 3, reg. ref. 23/600). Given the extension to the substation will become a public asset and any connection thereto would be subject to a grid connection application to ESB Networks / EirGrid, I do not consider a similarly worded condition to be required in this instance or to be within the remit of the planning system having regard to separate permitting systems. Furthermore, the telecommunication condition relates specifically to the availability for future connections of the mast for which permission was sought, and I do not consider this relevant or comparable to the land access rights for third parties sought in the proposed condition. A comparable condition would need to deal with any access to install cabling to/from the telecommunication mast.

- 7.3.12. In conclusion, I do not consider the proposed condition to be within the remit of the 2000 Act, as amended and in my view, the Board would not be entitled to impose the proposed condition to any consent granted for the development, and that doing so would be ultra vires.

#### 7.4. Other Matters

Planning authority's Condition 5 imposes operational noise limits to sensitive receptors. I note the applicant in the planning application documentation offers up operational noise limits in accordance with Areas of Low Background Noise as per Table 1 of the EPA's Guidance Note for Noise: Licence Applications, Surveys and Assessments in relation to Scheduled Activities (NG4) (January 2016). These limits are stricter than those imposed by the planning authority. I further note that existing and permitted developments on the site, namely 17/194 as amended by 19/55, 20/444 and 23/60111 are all subject to the less strict noise limits imposed by the planning authority. Having regard to this, the integrated operations of the proposed development with existing and permitted onsite operations and the distance of same to sensitive receptors, I consider that that the less strict noise limits imposed by the planning authority are appropriate in this instance, and I recommend that these are conditioned if the Board are minded to grant permission.

### 8.0 Environmental Impact Assessment Screening

- 8.1.1. The Environmental Impact Assessment (EIA) pre-screening is set out in **Appendix A** of this report. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination.

### 9.0 Appropriate Assessment Screening

- 9.1. My Appropriate Assessment (AA) Screening is set out in **Appendix B** of this report. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I

conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on River Shannon Callows SAC (000216) or Middel Shannon Callows SPA (004096) in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

9.2. This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site.
- Distance from and weak indirect connections to the European sites.

## 10.0 Water Framework Directive Screening

10.1. My Water Framework Directive (WFD) Screening is set out in **Appendix C** of this report. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## 11.0 Recommendation

11.1. It is recommended that the Board grant planning permission for the proposed development for the following reasons and considerations and subject to the conditions set out below.

## 12.0 Reasons and Considerations

The Board 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, as amended by Section 17 of the Climate Action and Low Carbon Development (Amendment) Act 2021, (consistent with the relevant provisions of the most recent approved, climate action plan, national long term climate action strategy, national adaptation framework and approved sectoral adaptation plans, the 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);

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

(a) European, national, regional and local planning, energy, climate and other policy of relevance, including in particular the following:

**European Policy/Legislation** including:

- Directive 2014/52/EU amending Directive 2011/92/EU (Environmental Impact Assessment Directive);
- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directive);
- Directive 2000/60/EC (Water Framework Directive)

**National Policy and Guidance** including:

- Project Ireland 2040 - National Planning Framework, 1<sup>st</sup> Revision (2025);
- National Development Plan (2021-2030);
- The objectives and targets of the National Biodiversity Action Plan 2023-2030;
- Long-term Strategy on Greenhouse Gas Emissions Reduction (2024);
- Policy Statement on Security of Electricity Supply (November 2021);
- National Energy Security Framework (April 2022);
- National Energy and Climate Action Plan (2021-2030);

**Regional and Local Planning Policy**, including in particular:

- Regional Spatial and Economic Strategy for the Eastern and Midlands Region (2019-2031);
- Offaly County Development Plan 2021-2027;

(b) The location, nature, scale and layout of the proposed development,

(c) The pattern of development within the area and context of the receiving environment,

- (d) The range of mitigation measures set out in the Environmental Impact Assessment Report and Natura Impact Statement,
- (e) Measures proposed for the construction, operation and decommissioning of the development,
- (f) The submissions received in relation to the appeal,
- (g) The Inspector's report and recommendation.

### **Proper Planning and Sustainable Development**

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with European, national, and regional renewable energy policies and with the provisions of the Offaly County Development Plan 2021-2027, would not seriously injure the visual or residential amenities of the area or otherwise of property in the vicinity or have an of unacceptable impact on the character of the landscape or on cultural or archaeological heritage, would not have a significant adverse impact on ecology, would be acceptable in terms of traffic impacts and safety and would make a positive contribution to Ireland's renewable energy and security of energy supply requirements. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment Stage 1 Screening Determination**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on River Shannon Callows SAC (000216) or Middle Shannon Callows SPA (004096) in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

## 13.0 Conditions

1.	<p>The development shall be carried out in accordance with the plans and particulars submitted with the planning application except as may be otherwise required by the following conditions.</p> <p><b>Reason:</b> To clarify the plans and particulars for which permission is granted.</p>
2.	<p>Construction operations including HGV movements to and from the site shall be restricted to between 07.00 to 19.00 hours Mondays to Fridays inclusive, between 08.00 to 14.00 hours 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.</p> <p><b>Reason:</b> To safeguard the amenity of property in the vicinity.</p>
3.	<p>The construction of the development shall be managed in accordance with a Construction Environmental 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> <ul style="list-style-type: none"> <li>(a) Location of the site and materials compound(s) including area(s) identified for the storage of soils and construction waste;</li> <li>(b) Location of areas for construction site offices/welfare facilities, and details of water supply and disposal of foul water for same;</li> <li>(c) Details of on-site car parking and turning facilities for haulage vehicles and site workers during the course of construction;</li> <li>(d) Details of the timing and routing of construction traffic including any abnormal loads (if required) to and from the construction site and associated directional signage. Routing of haulage traffic shall avoid local roads, where possible, and take account of weight/height restrictions of bridges;</li> <li>(e) Construction traffic management plan;</li> <li>(f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</li> </ul>

	<p>(g) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels. Noise abatement measures shall comply with the recommendations of BS 5228, 'Code of Practice for Noise and Vibration Control on Construction and Open Sites';</p> <p>(h) Measures to protect groundwater and surface waters.</p> <p>(i) 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>(j) Details of how it is proposed to manage excavated soil and off-site disposal of construction/demolition waste/spoil;</p> <p>(k) Measures to prevent the spread of hazardous invasive species and pathogens including ensuring all plant and machinery used during the works are thoroughly cleaned and washed before delivery to the site.</p> <p>(l) Emergency response planning, site environmental policy, and project roles and responsibilities.</p> <p><b>Reason:</b> In the interest of amenities, public health and safety and environmental protection.</p>
4.	<p>The site entrance including drainage and any modification of existing drainage shall be constructed in accordance with the submitted plans and relevant TII design standards. All proposed signage and line markings shall be installed in accordance with the submitted plans and in accordance with the Traffic Signs Manual 2019 and DMURS. Unobstructed sightlines in accordance with TII standards shall be maintained for both site entrances on the R357.</p> <p><b>Reason:</b> In the interest of road safety.</p>
5.	<p>All surface water run-off generated by the site shall be attenuated and catered for within the site in accordance with submitted plans and particulars and best practice. Discharge rates shall be limited to greenfield runoff or as required by the planning authority. Only clean, uncontaminated storm water shall be discharged to the surface water attenuation system and the Silver River.</p> <p><b>Reason:</b> In the interest of public health and water quality.</p>
6.	<p>All fencing shall be dark green in colour and the external walls of the IPP buildings shall be finished in a neutral colour such as light grey or off-white; the roof shall be of black tiles/slates.</p>



	<b>Reason:</b> In the interest of the visual amenity of the area.
7.	<p>(a) Provisions for public lighting within the development shall be appropriately designed LED lighting.</p> <p>(b) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the adjacent road.</p> <p>(c) Cables, pipelines and ducts within the site shall be laid underground unless otherwise agreed with the planning authority.</p> <p><b>Reason:</b> In the interest of visual amenity of the area.</p>
8.	<p>The installation of the precast concrete wall head and associated pipe and the reinstatement works of the riverbank shall be in accordance with the Inland Fisheries Ireland Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters (2016).</p> <p><b>Reason:</b> In the interests of fishery, biodiversity and water quality protection.</p>
9.	<p>The developer shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
10.	<p>(a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:</p> <p>(i) An LAeqT value of 55 dB(A) during the period 0800 to 20.00 hours. [The T value shall be one hour.]</p> <p>(ii) An LAeqT value of 45 dB(A) during the period 20.00 to 08.00 hours. [The T value shall be 15 minutes.]</p> <p>(b) Audible tonal or impulsive components should be minimised at any noise sensitive location.</p> <p>(c) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with respect of Community Response" as amended by ISO Recommendations R 1996 1, 2 or 3 "Description and Measurement of Environmental Noise" as applicable.</p>

	<b>Reason:</b> To protect the amenities of property in the vicinity of the site
11.	<p>(a) Pre- and post-construction road condition surveys, including a video survey, photographic survey, road condition survey, and a falling weight deflectometer survey, of the agreed haulage route section of the R357 shall be carried out and road surface damage and/or deterioration identified shall be repaired by the developer to the satisfaction of the Planning Authority.</p> <p>(b) Prior to commencement of development, the applicant/developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement (if required) of the regional road, R357, 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><b>Reason:</b> To ensure that the public road is satisfactorily reinstated, if necessary.</p>
12.	<p>The developer shall pay to the planning authority a financial contribution of <b>€5,385</b> (€15x359m<sup>2</sup>) 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.</p> <p><b>Reason:</b> 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>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Heidi Thorsdalen  
Senior Planning Inspector

28<sup>th</sup> May 2025

## Appendix A: Environmental Impact Assessment Pre-Screening

<b>Form 1 - EIA Pre-Screening</b>	
<b>Case Reference</b>	ABP-322004-25
<b>Proposed Development Summary</b>	<p>Construction of an air insulated switchgear (AIS) extension to Derrycarney 110kV substation, an independent power provider (IPP) compound containing two IPP buildings and transformers, grid connection, associated infrastructure and all associated works.</p> <p>See <b>Section 2.0</b> of the Inspector's Report.</p>
<b>Development Address</b>	Lumcloon, Cloghan, Co. Offaly.
<b>In all cases check box /or leave blank</b>	
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	

<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.  <b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>  <b>OR</b>  <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	

<b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b>	
<b>Yes</b> <input type="checkbox"/>	
<b>No</b> <input checked="" type="checkbox"/>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b>

**Inspector:** \_\_\_\_\_ **Date:** 28<sup>th</sup> May 2025

## Appendix B: Appropriate Assessment Screening

Screening for Appropriate Assessment Test for likely significant effects	
Case Reference: ABP-322004-25	
Step 1: Description of the project and local site characteristics	
<b>Brief description of project</b>	<p>Construction of an air insulated switchgear (AIS) extension to Derrycarney 110kV substation, an independent power provider (IPP) compound containing two IPP buildings and transformers, grid connection, associated infrastructure and all associated works at Lumcloon, Cloghan, Co. Offaly.</p> <p>Third Party Appeal</p> <p>See <b>Section 2.0</b> of Inspector's Report.</p>
<b>Brief description of development site characteristics and potential impact mechanisms</b>	<p><b>Site:</b> The site (grid reference 613789E 719612N) is located within, and adjacent to, the existing Derrycarney 110kV substation and Lumcloon Power Limited BESS facility. The site is a brownfield site, part of the former Ferbane peat fired power station site (closed 2001, decommissioned 2004). The site is predominately flat, average around 46.5mAOD.</p> <p><b>European Sites:</b> The nearest European Sites are Ferbane Bog Special Area of Conservation (SAC) and Moyclare Bog SAC, approximately 6km north and 6.9km northwest of the site respectively.</p> <p><b>Watercourses:</b> The Silver River is located along the most eastern boundary of the site, it flows north into the Brosna river, which in turn flows into the River Shannon. The Silver River crosses the Grand Canal, a proposed Natural Heritage Area (NHA), approximately 1.6km north of the site. There is a dry drain along the R357 at the northern boundary of the site. A precast concrete head wall is proposed on the western embankment of the Silver River for the discharge of collected attenuated surface water.</p>
<b>Screening report</b>	<p><b>Yes</b> – Report for the Purpose of Appropriate Assessment Screening (Halston, November 2024), and it concludes that:</p> <ul style="list-style-type: none"> <li>the proposed development is not directly connected with, or necessary to the conservation management of the European sites considered in this assessment;</li> <li>is unlikely to either directly or indirectly significantly affect the Qualifying interests or Conservation Objectives of the European sites considered in this assessment;</li> <li>the proposed development, alone or in combination with other projects, is not likely to have significant effects on the European sites considered in this assessment in view of their conservation objectives; and,</li> </ul>

	<ul style="list-style-type: none"> <li>it is possible to conclude that significant effects can be excluded at the screening stage.</li> <li>It can be excluded, on the basis of objective information, that the Proposed Development, individually or in combination with other plans or projects, will have a significant effect on a European site.</li> <li>An appropriate assessment is not, therefore, required.</li> </ul> <p><b>Offaly County Council:</b> Screened out the need for an AA (see <b>Section 3.2</b> of Inspector's Report).</p>
<b>Natura Impact Statement</b>	<b>No</b>
<b>Relevant submissions</b>	<b>None</b>

## Step 2. Identification of relevant European sites using the Source-pathway-receptor model

Applicant's AA screening report identified all European Sites within a potential 15km Zone of Influence (Zol) of the site. The Source-pathway-receptor model including Qualifying Interests and Conservation Objectives was then applied in the screening.

I have identified below the European Sites within Zol using the Source-pathway-receptor model.

European Site (code)	Qualifying interests Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections	Consider further in screening Y/N
Ferbane Bog SAC (site code 000575)	Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the Rhynchosporion [7150]  Conservation Objectives (NWPS, 2015): <a href="#">CO000575.pdf</a>	c. 6.1km north	No hydrological or other connections to the habitats of this site.	<b>N</b>
Moyclare Bog SAC (site code 000581)	Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the Rhynchosporion [7150]  Conservation Objectives (NWPS, 2015):	c. 6.9km northwest	No hydrological or other connections to the habitats of this site.	<b>N</b>

	<a href="#">CO000581.pdf</a>			
River Shannon Callows SAC (site code 000216)	QIs – habitats/species including Molinia meadows, Lowland hay meadows, Alkaline fens, Limestone pavements, Alluvial forests with Alnus glutinosa and Fraxinus excelsior, and Otter  Conservation Objectives (NWPS, 2022): <a href="#">CO000216.pdf</a>	c. 10.2km west (c. 18.6km downstream)	Remote downstream surface water connection. No ecological connection.	Y
Middle Shannon Callows SPA (site code 004096)	QIs – 8 bird species including Whooper Swan, Wigeon, Corncrake, Golden Plover, Lapwing, Black-tailed Godwit, Black-headed Gull, and Wetland and Waterbirds.  Conservation Objectives (NWPS, 2022): <a href="#">CO004096.pdf</a>	c. 10.2km west (c. 18.6km downstream)	Remote downstream surface water connection. No ecological connection.	Y

**Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites**

**AA Screening matrix**

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
<b>Site 1: River Shannon Callows SAC (000216)</b> <ul style="list-style-type: none"> <li>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</li> <li>Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510]</li> <li>Alkaline fens [7230]</li> <li>Limestone pavements [8240]</li> </ul>	Direct: None  Indirect: Construction: construction related emissions including sedimentation and pollution to surface water. Localised and temporary.  Operation: surface water runoff.	Contained nature of site (defined boundaries, predominately made flat ground cover, and no ecological connections), setback of construction works from Silver River and given the downstream distance make it <b>highly unlikely</b> that the proposed development could generate impacts of a magnitude that could affect habitat quality within the SAC for the SCI listed.



<ul style="list-style-type: none"><li>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</li><li><i>Lutra lutra</i> (Otter) [1355]</li></ul>		No ex-situ effects on otters given distance.
	<b>Likelihood of significant effects from proposed development (alone): No</b>	
	<b>If No, is there likelihood of significant effects occurring in combination with other plans or projects? No</b>	
	<b>Possibility of significant effects (alone) in view of the conservation objectives of the site*</b>	
	<b>Impacts</b>	<b>Effects</b>
<b>Site 2: Middle Shannon Callows SPA (004096)</b> <ul style="list-style-type: none"><li>Whooper Swan (<i>Cygnus cygnus</i>) [A038]</li><li>Wigeon (<i>Anas penelope</i>) [A050]</li><li>Corncrake (<i>Crex crex</i>) [A122]</li><li>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</li><li>Lapwing (<i>Vanellus vanellus</i>) [A142]</li><li>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</li><li>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</li><li>Wetland and Waterbirds [A999]</li></ul>	Direct: None  Indirect: Construction: construction related emissions including sedimentation and pollution to surface water. Localised and temporary.  Operation: surface water runoff.	No ex-situ effects on SCI birds. Existing made ground cover within the site does not offer suitable habitat for overwintering birds and the site is not within core foraging distances.  Contained nature of site (defined boundaries, predominately made flat ground cover, and no ecological connections), setback of construction works from Silver River and given the downstream distance make it <b>highly unlikely</b> that the proposed development could generate impacts of a magnitude that could affect habitat quality within the SPA for the SCI listed.
	<b>Likelihood of significant effects from proposed development (alone): No</b>	
	<b>If No, is there likelihood of significant effects occurring in combination with other plans or projects? No</b>	
<b>Step 4 Conclude if the proposed development could result in likely significant effects on a European site</b>		
I conclude that the proposed development (alone) would not result in likely significant effects on River Shannon Callows SAC (000216) or Middle Shannon Callows SPA (004096). The proposed development would have no likely significant effect in combination with other plans and projects on any European sites. No further assessment is required for the project.		

No mitigation measures are required to come to these conclusions. I consider the provision of the oil/petrol interceptor a standard measure to prevent ingress of pollutants and is not a mitigation measure for the purpose of avoiding or preventing impacts to the SAC or SPA.

## **Screening Determination**

### **Finding of no likely significant effects**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on River Shannon Callows SAC (000216) or Middel Shannon Callows SPA (004096) in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site.
- Distance from and weak indirect connections to the European sites.

**Inspector:** \_\_\_\_\_ **Date:** \_28<sup>th</sup> May 2025\_\_\_\_\_

## Appendix C: Water Framework Directive Screening

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	322004-25	Townland, address	Lumcloon, Co. Offaly
Description of project		<p>Third party appeal.</p> <p>Construction of an air insulated switchgear (AIS) extension to Derrycarney 110kV substation, an independent power provider (IPP) compound containing two IPP buildings and transformers, grid connection, associated infrastructure and all associated works.</p> <p>See Section 2.0 of Inspector's Report.</p>	
Brief site description, relevant to WFD Screening,		<ul style="list-style-type: none"> <li>• Rural location, site area is 2ha and relatively flat, averaging around 46.5 mAOD.</li> <li>• A brownfield site of predominately made ground, located within, and adjacent to, the existing Derrycarney 110kV substation and Lumcloon Power Limited BESS facility. The site is part of the former Ferbane peat fired power station site (closed 2001, decommissioned 2004).</li> <li>• Open drainage channel along the northern boundary of the site, adjacent to the R357 public road.</li> <li>• The Silver River, which flows north, adjoins the site to the east, c.230m east of the IPP compound area and c. 25m from the access road.</li> <li>• The site is not within a flood zone and no history of flooding recorded.</li> </ul>	

	<ul style="list-style-type: none"> <li>• Located in 25A Lower Shannon catchment and subcatchment 25A_11 Brosna_SC_070. The western part of the site is within the Brosna_120 WFD River Sub Basin (IE_SH25B090950) and the eastern part is within the Silver (Kilcormac)_050 WFD River Sub Basin (IE_SH25S020700).</li> <li>• Site is underlain by Waulsortian Limestones. There are no recorded karst features at the site.</li> <li>• Soil and subsoils are Made reflecting site history except closer to the Silver River where it is alluvium, mainly post glacial sand and gravel deposits.</li> <li>• The application documentation notes that previous site investigations indicate that subsoils at the site comprise moderately permeable glacial till deposits overlying moderately to highly permeable gravels with an average thickness of 5.3m. A thin layer of black sandy clay was also encountered, potentially representing peat ash.</li> <li>• Groundwater vulnerability is Moderate.</li> <li>• The bedrock aquifer is classified as a Locally Important (LI) aquifer which is described as bedrock which is moderately productive in local zones only.</li> <li>• Groundwater is considered to flow to the east/northeast towards the Silver river.</li> <li>• There is a water quality monitoring station at Lumcloon Bridge.</li> </ul>
<b>Proposed surface water details</b>	<ul style="list-style-type: none"> <li>• No alteration to existing drainage pattern proposed.</li> <li>• Stormwater from permeable surfaces will infiltrate directly to ground (such as 50mm clean stone to match existing substation compound).</li> </ul>

	<ul style="list-style-type: none"><li>• The access road within the EirGrid compound will be drained utilising filter drains. These are to run longitudinally along the road and allow the stormwater to infiltrate into the surrounding soils.</li><li>• Stormwater collected from impervious areas (c. 0.075ha including roof of IPP buildings and two transformer bunds) and discharged under controlled conditions to the Silver River via a full retention oil interceptor and below ground attenuation tank 23.5m³). Discharge rates will be limited to greenfield runoff or as required by the Local Authority prior to discharge.</li></ul>					
Proposed water supply source & available capacity	No abstraction of groundwater or water connection proposed.					
Proposed wastewater treatment system & available capacity, other issues	No wastewater connections proposed. The operational development will not generate foul or process effluent.					
Others?						
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)

<b>Silver River</b>	Proposed compound c. 230, Access road c. 25, Outflow pipe/headwall on western bank of river.	Silver (Kilcormac)_050 (IE_SH_25S020700)	Moderate (2 <sup>nd</sup> cycle, 2016-2021) Achieving high or good status except for biological and invertebrate status/potential and nitrate conditions which are moderate.	At Risk of not achieving Good objective.	Agriculture, hydromorphology, peat Issues include nutrient pollution, and the ecological value is driven by fish status.	Indirect and direct surface water run-off.
<b>Clara Groundwater body (GWB)</b>	N/A	Clara (IE_SH_G_240)	Good (2 <sup>nd</sup> cycle, 2016-2021)	Not at risk, and status Good.	None.	Ground infiltration of surface water run-off.
<b>Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.</b>						
<b>CONSTRUCTION PHASE</b>						

No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	<b>Determination** to proceed to Stage 2.</b> <b>Is there a risk to the water environment?</b> <b>(if 'screened' in or 'uncertain' proceed to Stage 2.</b>
1.	Earthmoving, surfacing, construction compound	Silver (Kilcormac)_050 (IE_SH_25S020700)	Direct and indirect surface water runoff	<p>Potential for release of silts and suspended solids. Accidental spills or release of contaminants.</p> <p>Potential for impact limited by short duration, setback of main work areas from watercourse, contained site of flat made ground and limited excavations,</p>	<p>Spill containment products including absorbent materials, banded storage and silt bags.</p> <p>Soil screening (HWOL assessment)</p> <p>Risk assessment methods (RAMS)</p>	<b>No.</b> Mitigations in line with best practice and addresses the potential for impact.	<b>Screened out.</b> Work component will not result in a deterioration of the status of the Silver river or jeopardise the attainment of good status.

2.	As above.	Clara (IE_SH_G_240)	Ground infiltration of surface water	<p>Nutrient pollution of groundwater.</p> <p>No quantitative impact.</p> <p>Potential for impact limited by reduced excavation given generally flat site of made ground.</p> <p>No requirement for dewatering of shallow/perched groundwater anticipated.</p>	As above.	<b>No.</b> Mitigations in line with best practice and addresses the potential for impact.	<b>Screened out.</b> Work component will not result in a deterioration of the status of the GWB or jeopardise the attainment of good status.
3.	Concrete drainage headwall installation	Silver (Kilcormac)_050 (IE_SH_25S020700)	Instream works, surface water run-off	<p>Impact on aquatic habitat and species.</p> <p>Release of silts and suspended solids.</p> <p>Accidental spills or release of contaminants.</p>	Works to be carried out in accordance with Inland Fisheries Ireland (IFI) Guidelines (2016).	<b>No.</b> Mitigations in line with best practice and addresses the potential for impact on water quality and aquatic vegetation/species.	<b>Screened out.</b> Work component will not result in a deterioration of the status of the Silver river or jeopardise the attainment of good status.



				Localised works, short duration.		Works will not result in hydromorphological changes in the watercourse.	
<b>OPERATIONAL PHASE</b>							
3.	Collected stormwater discharge	Silver (Kilcormac)_050 (IE_SH_25S020700)	New surface water outflow pipe and headwall	Release of spills and contaminants.	Full retention oil interceptor, attenuation tank and controlled discharge via hydrobrake and headwall to greenfield runoff.	<b>No.</b>  Mitigations in line with best practice and addresses the potential for impact.	<b>Screened out.</b>  Work component will not result in a deterioration of the status of the Silver river or jeopardise the attainment of good status.
5.	Stormwater run-off	Clara (IE_SH_G_240)	Ground infiltration of surface water	Nutrient pollution of groundwater.  Potential impacts limited by modular components, and unmanned site.	Clean stone fill for permeable surfaces, 50mm for compounds and 150mm thick layer of 50mm single-size, clean stone, on 6F	<b>No.</b>  Mitigations in line with best practice and addresses the potential for impact.	<b>Screened out.</b>  Work component will not result in a deterioration of the status of the GWB or jeopardise the attainment of good status.

					stone fill material for internal roads. Filter drains along ESB compound roads.		
DECOMMISSIONING PHASE							
5.	N/A	N/A	N/A	N/A	N/A	N/A	N/A

**Inspector:** \_\_\_\_\_ **Date:** \_\_28<sup>th</sup> May 2025\_\_\_\_\_