



Question Whether the excavation of trenches along public road, roadside margins and through private land and the laying of a 33KV underground cable over a c. 4.7km route, is or is not development or is or is not exempted development.

Location Swordlestown South, Flemingstown North, Mullacash Middle, Mullacash South, Flemingstown South or Tonaphuca, Coughlanstown West, Johnstown or Dunnstown, County Kildare

Declaration

Planning Authority Kildare County Council

Planning Authority Reg. Ref. ED1280

Applicant for Declaration Strategic Power Projects Limited

Planning Authority Decision No declaration issued

Referral

Referred by Kildare County Council

Observers None

Date of Site Inspection 13th January 2026

Inspector Jim Egan

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1.0 Introduction

Strategic Power Projects Limited sought a declaration from Kildare County Council (the planning authority) under Section 5 of the Planning and Development Act 2000, as amended (the Act). The declaration request was not determined by the planning authority who have referred it to An Coimisiún Pleanála under Section 5(4) of the Act.

The Commission is required to determine whether the development of a 33 kV underground cable related to a solar farm development is or is not exempted development under Section 4 of the same Act.

2.0 Site Location and Description

The route of the underground cable is approximately 4.7 km in length, located in a rural area generally east of Twomilehouse in east county Kildare. The route traverses a number of rural townlands, commencing in Johnstown or Dunnstown (on land adjacent to the existing Dunnstown 400kV substation site) and ending in Swordlestown South on the site of a permitted a solar farm (ABP-314320-22 refers), with the route passing through the townlands of Coughlanstown West, Mullacash South, Flemingstown South or Tonaphuca, Mullacash Middle and Flemingstown North.

The cable would be laid along c. 3.08km of public road and within c. 1.62km of private land. From the southern / grid connection end, the proposed route would traverse private land before emerging onto the L6044, travelling due north for c. 200m before crossing private land in an east / southeast direction to meet the L6045. The route then follows the L6045 north for c. 1.6km before joining the L20231 and continuing north for c. 1.25km to the permitted solar farm site.

3.0 The Question

The question subject of the referral is:

Whether excavating trenches along public roadside margins and through private land and laying 33kV underground cable over a c. 4.8km route from a solar farm permitted under Kildare County Council planning application ref. 22/111 (ABP-314320-22) and

the existing Dunnstown 400kV substation site at Dunnstown, all associated works, is or is not development or is or is not exempted development.

In the interests of clarity, I propose to reword the question before the Commission as follows:

Whether the development of a 33kV underground cable to connect the permitted Swordlestown Solar farm to the existing Dunnstown 400kV substation site is or is not development and is or is not exempted development.

The documentation submitted by the applicant for the declaration (Strategic Power Projects Limited) includes the following:

- Development Drawings
- Construction Methodology report
- Appropriate Assessment Screening Report
- Letter from Strategic Power Projects Limited declaring its capacity as a ‘Statutory Undertaker’ within the definition of the Planning and Development Act 2000, as amended.
- Consent letters from third-party landowners

4.0 Planning Authority Declaration

4.1. Declaration

No declaration was made.

5.0 Planning History

P.A. ref. ED1261 (copy on file) – refers to an August 2025 declaration issued by Kildare County Council under Section 5 of the Planning and Development Act 2000 (as amended).

The declaration issued by Kildare County Council (P.A. ref. ED1261) was based on the same underground cable route as that currently before the Commission except for the final section of the cable on the southeastern end, which, under the first declaration request, was aligned along the northwestern boundary of the field in which the last

section of the cable is to be located, thus immediately adjacent to the Harristown Commons South (Dunshane Common) wetland.

The planning authority declared that the proposed development was development and not exempted development.

The assessment of the declaration request as set out in the planning authority's report dated 19th August 2025 (copy on file) was centred on the location of the cable route adjacent to the Harristown Commons South (Dunshane Common) wetland in the context of Objective BI O49 under the 2023-2029 County Development Plan and, by association, Article 9(1)(a)(vii) of the Planning and Development Regulations 2001, as amended. Refer to Section 9.4 of my report for further discussion on this issue.

ABP-319518-24 / P.A. ref. 21/608 – Remitted case – 10-year planning permission for the construction of enclosed battery energy storage system. Not yet determined.

ABP-310841-21 / P.A. ref. 21/608 – refers to a 2022 grant of a 10-year permission for the construction of enclosed battery energy storage system. In March 2024 the Board's decision was quashed by the High Court and remitted back to An Bord Pleanála for a fresh determination.

ABP-314320-22 / P.A. ref. 22/111 – refers to a 2024 grant of a 10-year permission for the construction of solar PV development on a c.129 ha site.

ABP-310033-21 – refers to a pre-application consultation request in respect of the development of a 220kV substation and grid connection at existing Dunnstown 400kV substation. In January 2022 An Bord Pleanála determined that the development came within the scope of s.182A and would constitute strategic infrastructure development.

6.0 Policy Context

6.1. Development Plan

The development is located in County Kildare and is under the Kildare County Development Plan 2022-2028. The site is located in a rural, un-zoned part of the county.

The following provisions of the CDP are considered to be of relevance to this referral, particularly with reference to the previous declaration issued by the planning authority (P.A. ref. ED1261):

Chapter 12 – Biodiversity and Green Infrastructure

Action BI A10 Identify and map County Biodiversity Sites in cooperation with the relevant statutory agencies, other relevant groups and the general public, not otherwise protected by legislation and to identify specific peatland areas of biodiversity interest for protection, including legal protection where mechanisms are available (including but not limited to Lullymore/Allen/Lodge Bog, Harristown/Dunshane Common, Kingsbog Common, and Suncroft Common).

Objective BI O49 Protect wetland sites that have been rated A (International), B (National) C+ (County) and C (Local) importance as identified in the County Kildare Wetlands Survey 2012-2014, (See Tables 12.5 & 12.6). Any development within the zone of influence of these listed wetland sites should be subject to EclA and where appropriate, hydrological impact assessment.

Table 12.6 - County Kildare Wetland Survey Sites

6.2. Natural Heritage Designations

The cable route is not within or adjacent to any designated areas.

At its closest, the route is c. 6.5km west of the Poulaphouca Reservoir SPA (Site Code 004063), c. 7km southwest of the Red Bog, Kildare SAC (Site Code: 000397), c. 10km west of the Wicklow Mountains SAC (Site Code: 002122) and Wicklow Mountains SPA (Site Code 004040), c. 9km southeast of the Mouds Bog SAC (Site Code: 002331) and c. 30km southwest of the European Sites associated with Dublin Bay.

The closest Natural Heritage Area (NHA) is the Hodgestown Bog NHA (Site Code: 001393), c. 16km to the northwest. At its closest, the route is c. 3.5km southeast of the Grand Canal pNHA (Site Code: 002104) and c. 3.5km northwest of the Liffey Valley Meander Belt pNHA (Site Code: 000393).

For the purpose of clarity, I note that in the cover letter with the current declaration request, the applicant refers to a candidate Natural Heritage Area designation associated with the Harristown Commons wetland. For clarity, there is no formal / statutory natural heritage area designation on the Harristown / Dunshane Common wetland adjacent to the site. The identification of Harristown Common wetland as a candidate natural heritage area originates from Chapter 12 of the Kildare County Development Plan 2023-2029 (CDP), with a candidate status applying only to the

section of the wetland, known as Harristown Common, located north / northeast of Stephenstown Lawn / L6073, while the part of the wetland known as Harristown Commons South (Dunshane Common) wetland, located to the southwest of Stephenstown Lawn / L6073, is not identified under the CDP as a candidate natural heritage area. I would reiterate that a candidate natural heritage area is not a statutory designation nor is it akin to a proposed natural heritage area (also non-statutory) as referenced in the National Parks and Wildlife Service (NPWS) website¹.

7.0 The Referral

The referral received was not determined by the planning authority who has referred it to An Coimisiún Pleanála under Section 5(4) of the Planning and Development Act 2000 (as amended). Sections 7.1 and 7.2 below set out the following:

- The case as set out in the original Section 5(1) declaration application,
- The Planning Authority's referral under Section 5(4).

7.1. Application for Section 5(1) declaration to Kildare County Council

- The underground cable will connect a previously approved Solar Farm (Ref: ABP-314320-22) to an existing 400 kV substation site at Dunnstown.
- Under a previous declaration request to Kildare County Council (ref. ED1261 refers) the planning authority declared that the proposal was not exempted development, with that decision based on the alignment of the cable trench being in close proximity to the Harristown Commons South (Dunshane Common) wetland.
- The current declaration request seeks to address that issue by setting back the trench by c. 87m from the northwestern field boundary, set back from the wetland.
- The works will be undertaken by Strategic Power Projects Ltd, which is a 'Statutory Undertaker; within the definition of the Planning and Development Act 2000 as amended, authorised to carry out works for the supply of electricity.

¹ <https://www.npws.ie/protected-sites/nha>

- With reference to the submitted 'Construction Methodology' report:
 - The underground cable would be installed by trenching. No more than a 100m section of trench will be opened at any one time. The second 100m section will only be excavated once the majority of reinstatement has been completed on the first section.
 - The excavation, installation and reinstatement process will take on average 1 no. day to complete a 100m section. It is envisaged that an average of 250m of trenching and ducting will be completed each week. (The AA screening report outlines that the estimated time for completion of works is 3 months for works on the public road and 1 month on private land).
 - The proposed trench will consist of 6 no. 125mm diameter HDPE power cable ducts, 1 no. earth continuity conductor duct, and 1 no. 125mm diameter HDPE communications duct, all to be installed in an excavated trench, typically 1m wide by 1.265m deep, with variations on the design to adapt to services and watercourse crossings.
 - The route does not require any river crossings. The duct would be directly adjacent to a section of the Flemingtown South Stream which is aligned along the edge of the L6045. The Flemingtown South Stream is culverted where it crosses the L6045. The cable would cross 2 no. drainage ditches and 3 no. watermains. Alternative undercrossing methodology would be used for crossing drainage channels.
 - The proposal would also include the installation of below surface 'joint slabs' and 'communication chambers' at locations approximately every 1km – 1.2km along the route to facilitate the jointing of 2 no. lengths of cabling and communications ducts, respectively. Joint slabs are typically 1.8m wide x 2.7m long x c. 1.17m deep, while communication chambers are typically smaller.
 - Ducts will be installed and trench reinstated in accordance with the relevant local authority standards and agreed with Kildare County Council where installed in public roads.

- Traffic management measures will be implemented in accordance with a detailed Traffic Management Plan which will be prepared and agreed with Kildare County Council in advance of works commencing to ensure that traffic is managed during the works safely and with minimal impact.
 - Temporary site construction compounds will be located in consented locations within the solar farm site.
 - It is proposed to reinstate a c. 900m section of the L20231, the laneway that adjoins the southwestern corner of the solar farm along which a section of the grid connection cable route is aligned.
 - All environmental protection measures contained in the screening reports which accompany the Section 5 application will be incorporated into a detailed CEMP and construction method statements prior to the commencement of development.
- With reference to the submitted 'Appropriate Assessment – Stage 1 Screening Report':
 - AA screening report prepared by Malone O'Regan Environmental, reviewed and approved by Ms. Kathryn Broderick, Principal Consultant Ecologist.
 - A site walkover was undertaken on 19th January 2023 by a suitably qualified and experienced Environmental Ecologist, with an updated walkover / field-based assessment undertaken on the 9th April 2025. No survey limitations were encountered.
 - The route is located within the Liffey and Dublin Bay WFD Catchment (Catchment ID: 09) and the Liffey) SC_060 subcatchment (Subcatchment_ID: 09_6) (12).
 - The site is not located within or adjacent to any European site. 6 no. European sites are identified within 15km, with the closest located at a distance of c. 6.3km.
 - The Flemington South Stream is the only hydrological feature of note within the vicinity of the proposed cable route. The stream flows in a southerly direction and drains into the River Liffey c. 2.9km downstream

of the site, which, in turn, is hydrologically connected to the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA.

- Flemington South Stream has a 2016-2021 WFD river waterbody status of 'good' but 'at risk'.
- During the site walkover, a number of drainage ditches were noted along the existing hedgerow / treelines adjacent to the south and southeastern sections. These drainage ditches are not designated as part of a Drainage District or Arterial Drainage Scheme.
- No in-river works will be required during the construction of the cable route. The Flemington South Stream is culverted at the point where it will be crossed by the proposed cable, and there is sufficient cover within the local road (L6045) to accommodate the cable ducting.
- The contents of the 'Construction Methodology' report is noted.
- No impacts associated with designated habitat loss / degradation as a result of the proposed development, given the distance separating the site from the European sites.
- Water quality– should run-off of potential pollutants from the construction area reach the surface or groundwater and flow into nearby watercourses, this could adversely affect the water quality with subsequent impacts on downstream habitats and species associated with European sites. However, it is considered unlikely that pollutants could impact on the water quality of the South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA based on the nature of the works, no in-river works, no direct discharges to surface or groundwater, and limited chance, if any, of pollutants reaching the European sites based on separation distances and dilution factor.
- No in-combination effects identified.
- Progression to Stage 2 of Appropriate Assessment was not considered necessary.

7.2. Planning Authority Referral as per Section 5(4)

- Planning permission granted by An Bord Pleanála to Strategic Power Projects Limited for a solar farm (P.A. ref. 22/111, ABP Ref. 314320-22).
- Under a pre-application consultation ref. VC09.310033 (ABP-310033-21), An Bord Pleanála advised Strategic Power Projects Limited that a new 220kV substation on land adjacent to the existing Dunnstown 400kV substation would constitute Strategic Infrastructure Development (SID).
- The solar farm application was screening out for the requirement for EIAR.
- With reference to the O’Grianna v An Bord Pleanála judgement (with regards project splitting and EIAR), Kildare County Council understands that the environmental impacts and public consultation for the grid connection must be assessed together with the solar farm in this instance, preventing any potential for project splitting projects to avoid EIA or public notice requirements.
- A previous declaration issued by the planning authority in August 2025 declared that the same development description to be development and not exempted development.
- The Section 5(4) referral is made by the planning authority to the Commission having regard to the above and taking into consideration the solar farm permission and the 220kV SID pre-application consultation.

7.3. Applicant / Owner Response

No response received.

8.0 Statutory Provisions

8.1. Planning and Development Act 2000, as amended

Section 2 (1)

works are defined as any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

statutory undertaker means a person, for the time being, authorised by or under any enactment or instrument under an enactment to—

(b) provide, or carry out works for the provision of, gas, electricity or telecommunications services, or

(c) provide services connected with, or carry out works for the purposes of the carrying on of the activities of, any public undertaking;

Section 3(1)

Development means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structure or other land.

Section 4(4)

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Section 172(1)

“An environmental impact assessment shall be carried out by a planning authority or the Board, as the case may be in respect of an application for consent for

(a) Proposed development of a class specified in Schedule 5 to the Planning and Development Regulations 2001 which exceeds a quantity area, or other limit specified in that Schedule, and

(b) Proposed development of a class specified in Schedule 5 to the Planning and Development Regulations 2001 which does not exceed a quantity, area or other limit specified in that Schedule but which the planning authority or the Board determines would be likely to have significant effects on the environment.”

Section 177U(9)

“In deciding upon a declaration or a referral under section 5 of this Act a Planning Authority or the Board, as the case may be shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section”.

8.2. Planning and Development Regulations 2001, as amended

Article 3(3)

“electricity undertaking” means an undertaker authorised to provide an electricity service”.

Article 6(1)

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

The following classes of development are relevant:

Class 26

The carrying out by any undertaker authorised to provide an electricity service of development consisting of the laying underground of mains, pipes, cables or other apparatus for the purposes of the undertaking.

Article 9(1)(a) - Restrictions on Exemption

This sets out restrictions on exemptions for development to which Article 6 relates. Having regard to the referral and also to the previous declaration issued by the planning authority (ref. ED1261), the following sub-articles are considered relevant to the referral determination:

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and

the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

8.3. Electricity Regulation Act 1999

Section 2 (1) 'electricity undertaking' means any person engaged in generation, transmission, distribution or supply of electricity, including any holder of a licence or authorisation under this Act, or any person who has been granted a permit under Section 37 of the Principal Act.

8.4. Case Law

O'Grianna & others v An Bord Pleanála, [2014] IEHC 632

High Court judgement on judicial review of a permission granted on appeal by An Bord Pleanála for a development comprising 6 wind turbines and associated infrastructure in County Cork. Under this judgement, it was held that a grid connection formed part of an overall wind farm project where EIA was required to be carried out in order to avoid 'project splitting'. It was held that the cumulative impact of the wind farm and grid connection needed to be considered in order to comply with the EIA Directive.

Narconon Trust v An Bord Pleanála & Others, [2020] IEHC 25 and subsequent court of appeal [2021] IECA 307

An Bord Pleanála (now An Coimisiún Pleanála) is precluded from determining a Section 5 Referral in circumstances where a planning authority has previously determined the same, or substantially the same question, in respect of the site, where there is no evidence that there has been a material change in the planning facts and circumstances since the planning authority's declaration.

8.5. Precedent

With regard to grid connections, a number of comparable referrals have been adjudicated upon by the Commission. The following recent decisions are noted:

Table 2: Precedent Cases			
File Ref.	Development	Decision	Decision Date
322563	Whether the construction of 33kV underground cabling (1.83km total length approx.) to facilitate a connection between the approved Ardnageehy Solar Farm (Pl. Ref: 23/6099) and a 110kV Ballyroe Substation SID (Pl. Ref: ABP-314431-22) located in Ballynadrideen & Ballyroe Townlands, Co. Cork is or is not exempted development.	Is development and is exempted development	07/10/25
319370	Whether the laying of 20 kV underground electricity cable and associated joint bays and communication chambers in the public road (R708) from the permitted Keiloge Park to the existing Kilcarragh Substation (38 kV). Proposed cable route is c.1.4 km in length and runs through the townlands of Keiloge and Monamintra. Is or is not development and is or is not exempted development.	Is development and is exempted development	03/06/25
319600	Whether the proposed 110 kV underground grid connection cabling between the L30535 public road (to north of the existing Kellis 220 kV substation) to a line bay in the substation, at Kellistown East, Co. Carlow, is or is not development and is or is not exempted development:	Is development and is exempted development	07/05/25
319406	Whether the proposed 38 kV underground electrical connection between the consented Slanemore Solar Farm (Westmeath County Council PL. Ref. 17/6028 & 17/6224) and ESB Mullingar existing sub-station located at Mullingar Substation, Co. Westmeath is or is not development or is or is not is not exempted development.	Is development and is not exempted development	13/02/25
313557	Underground 10 kV grid connection to connect a permitted solar farm substation to existing 38 kV Castlerea Station, Co. Roscommon	Is development and is exempted development	19/10/23
310120	38 kV underground grid connection cable between the consented Cleggill Solar Farm to 38 kV Longford substation.	Is development and is exempted development	05/10/21
308071	Underground cables from Mauricetown Windfarm, Ashford, Ballagh, Co. Limerick to the substation at Dromdeeven	Is development and is exempted development	31/03/21
307927	Underground grid connection within the corridor of public roads and private lands linking a permitted solar farm at Walshestown, Mullingar, County	Is development and is exempted development	09/04/21

	Westmeath to the existing ESB Mullingar 110 kV substation at Irishtown, Mullingar, County Westmeath.		
307454	Underground 20 kV cable within the public road between a permitted solar farm and a 38 kV substation at Creevyquin, Co. Roscommon.	Is development and is exempted development	29/01/21
302895	20 kV underground grid connection between a permitted solar farm at Dysart, Johnstownbridge, Co Kildare and the Dunfirth ESB substation, Johnstownbridge, Co. Kildare	Is development and is exempted development.	12/03/19

9.0 Assessment

9.1. Is or is not development

- 9.1.1. I am satisfied that the provision of approximately 4.7 km of underground cable connecting a solar farm and substation constitutes *works* as defined in section 2(1) of the Act and comes within the definition of *development* as set out in section 3(1) of the said Act.

9.2. Is or is not exempted development

- 9.2.1. With reference to Section 4(2)(a)(i) of the Act, and the Regulations made thereunder, the relevant class of development is Class 26, Part 1 Schedule 2 of the Planning and Development Regulations 2001, as amended. This refers to “*The carrying out by any undertaker authorised to provide an electricity service of development consisting of the laying underground of mains, pipes, cables or other apparatus for the purposes of the undertaking.*”
- 9.2.2. I am satisfied that the proposal is “*a development consisting of the laying underground of cables for the purposes of the undertaking*”.
- 9.2.3. I note that ‘any undertaker authorised’ is not, of itself, defined. I have regard to the definition of ‘Statutory Undertaker’ in Section 2 of the Act as set out in Section 8.0 above and to the definition of ‘*electricity undertaking*’ as set out in Section 2(1) of the Electricity Regulation Act.

- 9.2.4. In light of these definitions, I am satisfied that Strategic Power Projects Limited falls within the category of statutory undertaker on foot of its authorisation under the Planning Act to construct a solar farm that is a project for the provision of electricity.
- 9.2.5. I would note that there are a number of cases which are listed above that are relevant. In these cases, the fact that the applicants have been granted permission for an electricity generating development have been determined to be sufficient to classify the applicants as coming under Class 26, Part 1 Schedule 2 of the Planning and Development Regulations.
- 9.2.6. On this basis I am satisfied that the proposed development falls within the scope of Class 26.

9.3. Restrictions on exempted development

- 9.3.1. There are no specific conditions or limitations attached to Class 26 of the Regulations. However, Section 4(4) of the Act precludes development being exempted development where an EIA or AA of the development is required. Article 9(1) of the Regulations details prescribed circumstances which would render a development not to be exempted development. Besides the consideration of Article 9(1)(a)(vii), which was the focus of the original Section 5 determination of the planning authority and AA, I do not consider that any other clauses under Article 9(1) are relevant to the referral. This conclusion in respect of restrictions is consistent with the planning authority's report (dated 19th August 2025) and declaration of Kildare County Council in respect of the previous declaration application (P.A. Ref. ED 1261). The planning authority was satisfied the applicant overcame all other restrictions. I agree with the planning authority in this respect.

Environmental Impact Assessment

- 9.3.2. The primary focus of the planning authority's referral relates to EIA and the concern with regards project splitting. In this regard, the planning authority refers to the implications of the O'Granna judgement for the proposed grid connection in the context of the solar farm permission granted to the applicant and the Strategic Infrastructure Development (SID) pre-application consultation conducted between the applicant and An Bord Pleanála with regards a 220kV substation.

- 9.3.3. In relation to EIA, and with reference to Appendix 1 of this report, I note that underground cabling is not a class of development contained in Parts 1 or 2 of Schedule 5 of the Regulations which sets out the prescribed classes of development and thresholds that trigger a mandatory EIAR.
- 9.3.4. I also note Class 1(a) under Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, which relates to restructuring of rural landholdings and removal of field boundaries. With reference to the submitted drawings and submitted Construction Methodology report, the removal of field boundaries to facilitate the undergrounding of the cable is limited to instances of where the underground cable will cross existing field boundaries and that in all such instances the section of hedgerow will be reinstated. As such, having regard to the purpose and to the nature and extent of the works in the subject case, I consider that such non-agricultural development would not constitute rural restructuring and, therefore, would not be considered sub-threshold development requiring preliminary screening or EIA.
- 9.3.5. As no element of the proposed development falls into a class of development contained in Schedule 5, Parts 1 or 2, I am satisfied that the proposed development does not therefore constitute sub-threshold development and neither a mandatory EIA, nor screening for EIA, is required.
- 9.3.6. With regards the potential for project splitting in the context of EIA, as referred to by the planning authority, the O’Grianna judgement found, in simple terms, that grid connection works must have the benefit of planning permission if they form part of an overall project that requires an EIA and that the cumulative impact of the primary project, in that case a wind farm, and the grid connection needed to be considered in order to comply with the EIA Directive.
- 9.3.7. I note that the solar farm application (ABP-314320-22) was deemed not to be a prescribed class of development for the purposes of EIA, nor was it deemed to constitute sub-threshold development in the context of restructuring of rural landholdings for the purpose of EIA, with reference to Class 1 under Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.
- 9.3.8. On the basis of the above, it is my view that the O’Grianna judgement is not relevant to the subject referral on the grounds that no element of the overall project (solar farm

or grid connection) is a class of development for the purposes of EIA nor development requiring sub-threshold EIA screening.

- 9.3.9. The planning authority also makes reference to the proposed 220kV substation to which SID pre-application consultation ref. ABP-310033-21 relates (a copy of this application and subsequent determination is attached). Whilst the planning authority does not specifically link the proposed substation to EIA and potential project splitting, in my view, and in the context of the referral in general, this is inferred.
- 9.3.10. The question posed under the applicant's declaration request does not refer to the proposed 220kV substation, rather it refers to solar farm grid connection to the existing 400kV substation site. However, a map included on page 6 of the submitted Construction Methodology report shows the alignment of the solar farm grid connection in the context of the proposed / indicative SID site, with the associated legend referring to the cable route as the '*33kV UCG (underground cable) Swordlestown Solar Park to Proposed Substation Location*'. This corresponds with the site layout plan submitted with the declaration request, which clearly shows that the grid connection cable would terminate at the site of a proposed 220kV substation. Whilst on foot of the pre-application consultation it was determined that the proposed 220kV substation constitutes Strategic Infrastructure Development (SID), there is no record that an SID application has been made to An Coimisiún Pleanála for the substation.
- 9.3.11. Notwithstanding, in the context of the referral and the O'Grianna judgement, it is worth examining the status of the proposed 220kV substation (albeit a planning application for same has yet to be made) within the wider national grid network. The documentation submitted with the SID pre-application consultation request, to which ABP-310033-21 relates, outlines that the substation would become a node on the national grid for this region in the county allowing a connection point for future solar projects in the area, a point noted in the associated Inspector's Report. Referring again to the O'Grianna judgement, the Court concluded that in reality the wind farm and its connection to the national grid was one project, neither being independent of the other. In my view there is a clear differentiation made between the 'project', in that case being the wind farm and associated grid connection, and the 'national grid', and also in terms of the elements of a project not being independent of each other.

- 9.3.12. In the current case, the permitted solar farm and the proposed grid connection to which the declaration request relates are not independent from each other, hence constituting the one project, whereas the proposed 220kV substation constitutes an upgrade to the national grid. That aside, I note that a 220kV substation is not a class of development for the purposes of EIAR.
- 9.3.13. Notwithstanding the above, the declaration sought relates to a connection between the permitted solar farm and the existing 400kV substation site. And in summary, with regard EIA, neither the proposed development (excavation of trenches for an underground cable) nor the solar farm which it is to serve fall within a class of development for the purposes of EIA with reference to Schedule 5 of the Planning and Development Regulations, 2001, as amended. I am satisfied that the provisions of Section 4(4) of the Act with regard to EIA do not apply in this case.

Appropriate Assessment (AA)

- 9.3.14. The matter of AA under Section 4(4) and Article 9(1)(a)(viiB) is addressed in detail in Appendix 2. I have concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

Article 9(1)(a)(vii) – Site of Ecological Interest

- 9.3.15. Under Section 6.0 of my report, I seek to provide clarity around natural heritage area designations. Of particular note is that the wetland adjoining the field in which the southwestern end of the underground cable would terminate is not a Natural Heritage Area nor a proposed Natural Heritage Area, rather a wetland identified in the CDP, the protection of which is sought by CDP Objective BI O49. Referring to the commentary in the planning authority's report (dated 19th August 2025 – copy on file) associated with the previous declaration, it is this objective and, by association, Article 9(1)(a)(vii) of the Regulations, which formed the basis of the previous declaration issued by the planning authority.
- 9.3.16. Article 9(1)(a)(vii) provides that development to which Article 6 of the same Regulations relates shall not be exempted development for the purposes of the Planning and Development Act 2000, as amended, if the carrying out of such development would consist of or comprise the excavation, alteration or demolition

(other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan. (Emphasis of the planning authority underlined).

- 9.3.17. In the context of Article 9(1)(a)(vii), particularly referring to sites, features or other objects of ecological interest, the planning authority referred to Objective BI O49 of the Kildare County Development Plan 2023-2029.
- 9.3.18. Objective BI O49 of the CDP seeks to *'protect wetland sites that have been rated A (International), B (National) C+ (County) and C (Local) importance as identified in the County Kildare Wetlands Survey 2012-2014, (See Tables 12.5 & 12.6). Any development within the zone of influence of these listed wetland sites should be subject to EclA and where appropriate, hydrological impact assessment'*.
- 9.3.19. CDP Table 12.6 identifies Harristown Commons South (Dunshane Common) wetland as a Category C+ Wetland (County Value). The site, in its capacity as a wetland, is not mapped in the CDP however Objective BI O49 refers to the County Kildare Wetlands Survey 2012-2014. This survey appears to be incorporated into a national wetland survey map², which identifies the extent of Harristown Commons South (Dunshane Common) wetland, including its south / south-eastern boundary with the field in which the proposed underground cable would terminate adjacent to the existing 400kV substation site.
- 9.3.20. The proposed development comprises the excavation of land for the purpose of laying a grid connection cable, with the documentation submitted with the declaration request outlining that the excavated trench would be typically 1m wide by 1.265m deep.
- 9.3.21. As outlined under the planning history section of my report, the previous declaration issued by Kildare County Council (P.A. ref. ED1261) was based on the same underground cable route as that currently before the Commission except for the

² <https://www.wetlandsurveys.ie/news/kildare-wetland-inventory-completed>

section of the cable on the southwestern end, which, under the first declaration request, was aligned close to the northwestern boundary of the field in which the southwestern section of the cable would terminate, thus immediately adjacent to the Harristown Commons South (Dunshane Common) wetland. The relevant section of underground cable along that northwestern boundary was also to include a joint slab and communication box, with the documentation submitted with the declaration request outlining that the joint slabs, the purpose of which are to join two lengths of cable, are typically 1.8m wide x 2.7m long x c. 1.17m deep, while the communication box, which joins two sections of telecommunication cable, are located adjacent to the joint slab and area of smaller size.

- 9.3.22. The planning authority declared that the proposed development was development and not exempted development. The assessment of the declaration request as set out in the planning authority's report, dated 19th August 2025 (copy on file), was centred on the routing of the underground cable adjacent to the boundary with the Harristown Commons South (Dunshane Common) wetland, and for this reason the planning authority concluded that in the context of CDP Objective BI O49, and in the absence of EclA (Ecological Impact Assessment) and hydrological impact assessment, pursuant to Article 9(1)(a)(vii) of the Regulations, the proposal could not be deemed to be exempted development. By referencing the absence of EclA and hydrological impact assessment it is inferred, in my view, that the planning authority considered that the proposed development, whilst not located directly within the wetland, was located within its 'zone of influence'.
- 9.3.23. The current declaration application has sought to address the previous declaration by relocating the relevant part of the underground cable and, by association, the joint slab and communication box, c. 87m back from the edge of the Harristown Commons South (Dunshane Common) wetland.
- 9.3.24. Whilst the applicant has amended the route in the southwestern end in an attempt to address the issue, the pertinent consideration, in my view, is that Objective BI O49 infers that the protection of relevant wetlands includes protection of their 'zone of influence' and that any development within the zone of influence of such listed wetland sites should be subject to EclA and where appropriate, hydrological impact assessment.

- 9.3.25. In this regard, whilst the cover letter submitted to the planning authority by the applicant with the current Section 5 declaration request refers to discussions with the planning officers of Kildare County Council, there is no documentation on file that provides clarity that the proposed development, by reason of the relocation of the southwestern end of the cable route, does not continue to conflict with CDP Objective BI O49, particularly with regards the reference within the objective to the 'zone of influence'. There is no information in the file, or in the CDP for that matter, which provides clarity around the nature or extent of a 'zone of influence' in respect of the Harristown Commons South (Dunshane Common) wetland, and by association, a trigger under the objective for Ecological Impact Assessment and, where appropriate, hydrological impact assessment.
- 9.3.26. With regards hydrology, I note that in respect of the remitted BESS application, the hydrology section of the Second Addendum to the Environmental Report (submitted to An Bord Pleanála in June 2025) outlines that the drainage ditches serving the BESS site (and, by association, the land across which the southwestern end of the underground cable would traverse) drain to the north into a drainage ditch that bisects the common land located to the north of the BESS site (referring to Harristown Commons South (Dunshane Common) wetland).
- 9.3.27. On the basis of the above, I consider that there is insufficient information on file to establish that the proposed development would not continue to conflict with CDP Objective BI O49 and therefore I consider that there is insufficient information or evidence on file to establish that the proposed development would not conflict with Article 9(1)(a)(vii) of the Regulations. On this basis, it is my view that the proposed development does not constitute exempted development.
- 9.3.28. Whilst I note the precedent cases set out under Section 8.5 above for similar grid connections being declared exempted development, there are, in my view, overriding circumstances in this case with regards the applicability of Article 9(1)(a)(vii) in the context of the particular wording and implications of CDP Objective BI O49.
- 9.3.29. Furthermore, the referral before the Commission relates to a second declaration sought by the applicant, which, on face value, relates to the same question as that posed under the first declaration sought and with that first declaration request subsequently determined by the planning authority. Having regard to the findings

under *Narconon Trust v An Bord Pleanála & Others*, [2020] IEHC 25, the Commission must be satisfied that it is within the Commission's powers to determine the current Section 5 referral.

- 9.3.30. For background, Narconon Trust issued judicial review proceedings against An Bord Pleanála to challenge a Section 5 declaration issued by An Bord Pleanála in 2018, a declaration which conflicted with a declaration issued by Meath County Council in 2016 in respect of the same question relating to the same development on the same site in County Meath. Narconon argued that the Board was precluded from issuing a declaration in circumstances where the Council had previously determined a Section 5 referral on the same matter. The High Court found in favour of Narconon and quashed the 2018 Declaration. In his judgement, Heslin J held that the Board could not lawfully decide the 2018 Section 5 declaration request and acted beyond its legal authority in furnishing a determination in circumstances where, as a matter of fact, the 2018 declaration request constituted *'an impermissible attempt to circumvent the mandatory s. 50 (2) procedure to question the validity of a decision made by the Council in 2016, other than by way of an application for judicial review in the manner mandated by the 2000 Act.'*
- 9.3.31. An Bord Pleanála appealed this decision to the Court of Appeal. The question for appeal was whether it was within the Board's powers to determine a Section 5 referral, where: (i) a planning authority had previously determined the same question in relation to the same land, and (ii) there was no evidence of any change in the planning facts and circumstances since the planning authority's decision.
- 9.3.32. The Court of Appeal determined that An Bord Pleanála (now An Coimisiún Pleanála) is precluded from determining a Section 5 Referral in circumstances where a planning authority has previously determined the same, or substantially the same question, in respect of the site, where there is no evidence that there has been a material change in the planning facts and circumstances since the planning authority's declaration.
- 9.3.33. Of relevance to this declaration request is that the High Court found that the Board would not be precluded from considering a Section 5 application in all circumstances where there was a pre-existing Section 5 declaration. The Court of Appeal agreed that there could be changes on the facts that alter the situation from a planning perspective, such as an intensification of an existing use.

9.3.34. On the basis of the above, it is my view that the Judgment of Heslin J in *Narconon Trust v An Bord Pleanála & Others* has applicability in this referral case. By reference to the planning authority's report, dated 19th August 2025, the previous declaration issued by the planning authority pivoted on Objective BI O49 in the context of Article 9(1)(a)(vii). While the applicant has amended the course / alignment of the underground cable away from the boundary with the Harristown Commons South (Dunshane Common) wetland, the declaration application is, in my view, absent of objective information to demonstrate that the proposal does not continue to conflict with CDP Objective BI O49, particularly in the absence of clarity on the 'zone of influence' and implications of same.

9.3.35. In summary, the planning authority has previously determined the same, or substantially the same question, in respect of the site, and on the basis of the foregoing in terms of objective documentation to demonstrate otherwise, there is no evidence that there has been a material change in the planning facts and circumstances since the planning authority's declaration. As such, I consider that the Commission is precluded from considering the current Section 5 referral.

10.0 Recommendation

I recommend that the Commission should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the development of a 33kV underground cable to connect the permitted Swordlestown Solar farm to the existing Dunnstown 400kV substation site is or is not development and is or is not exempted development.

AND WHEREAS Kildare County Council referred this declaration for review to An Coimisiún Pleanála on the 3rd day of October, 2025:

AND WHEREAS having regard to the nature of the referral, An Coimisiún Pleanála is satisfied that, in the particular circumstances, the referral should not be further considered by it, as set out in the Reasons and Considerations below.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by Section 138(1)(b)(i) of the Planning and Development Act 2000, as amended, hereby dismisses the said referral based on the reasons and considerations set out below.

Reasons and Considerations

The Commission noted the previous determination of Kildare County Council (P.A. ref. ED1261) in relation to the substantially same question and in respect of the same land, with the previous declaration concluding that the proposed development did not benefit from exempted development provisions due to a local objective of the Kildare County Development Plan 2023-2029 in the context of Article 9(1)(a)(vii) of the Planning and Development Regulations 2001, as amended. Having regard to the earlier Section 5 declaration application submitted to Kildare County Council (P.A. ref. ED1261), the Commission considers that insufficient information has been submitted with the current Section 5 declaration application to substantiate that there has been a material change in the planning facts and circumstances since the previous determination was made. Therefore, the Commission has concluded that the Judgment of Heslin J in *Narconon Trust v An Bord Pleanála & Others* has applicability in this referral case. The Commission is, therefore, satisfied that, in the particular circumstances, the referral should not be further considered by it.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Jim Egan
Planning Inspector

21st January 2026

Appendix 1 - EIA Form 1

EIA Pre-Screening

Case Reference	ACP-323792-25
Proposed Development Summary	Whether the excavation of trenches along public road, roadside margins and through private land and the laying of a 33KV underground cable over a c. 4.7km route, is or is not development or is or is not exempted development.
Development Address	Swordlestown South, Flemingstown North, Mullacash Middle, Mullacash South, Flemingstown South or Tonaphuca, Coughlanstown West, Johnstown or Dunnstown, County Kildare
In all cases check box /or leave blank	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (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 type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input checked="" type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
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?	
<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.	Development comprising underground cabling for a grid connection is not a prescribed class of development for the purposes of EIA. Having regard to the purpose, nature and to the limited extent of the works, including that any hedgerows intersected would be reinstated, such non-agricultural

	development would not constitute rural restructuring under Class 1 of Part 2 of Schedule 5.
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.	
<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.	

Inspector: _____

Date: _____

Appendix 2 - AA Screening

Introduction

The referral documentation includes an AA Screening Report, which is dated September 2025. The AA Screening Report describes the development, its receiving environment and relevant European Sites in the potential zone of influence of the development.

The documentation is in line with current best practice guidance and provides adequate information to allow a complete examination and identification of any potential significant effects of the development, alone, and in combination with other plans and projects on European sites.

The AA screening report was prepared by Malone O'Regan Environmental on behalf of the applicant, with same reviewed and approved by Ms. Kathryn Broderick, Principal Consultant Ecologist, who appears to be scientifically and technically competent to do so.

The screening statement concludes that a Stage 2 AA is not required in this instance. The planning authority did not issue a declaration on this Section 5 application. With regards the previous declaration issued (P.A. ref. ED1261) and with reference to the AA Screening Report contained as Appendix 1 to the planning authority's report, dated 19th August 2025, I note a discrepancy insofar as that the planning authority in the first instance identifies that the proposed development would have no impact under the 4 no. categories tabulated within the screening report, a finding which should lead onto a conclusion that no further assessment is required, however, in the second instance, under the conclusion, the planning authority identifies that significant effects are certain, likely or uncertain, the option for which include requesting an NIS or rejecting the proposal. Notwithstanding the discrepancies evident in the planning authority's AA Screening Report I am satisfied that there is sufficient information on file for the Commission to screen the proposed development for appropriate assessment.

European Sites

The AA Screening Report considers European sites with a source-pathway-receptor link to the proposed development. With reference to OPR and NPWS guidance, the

AA Screening Report identifies a Zone of Influence based on the extent at which potential impacts may be carried via identified pathways (e.g., surface water, noise, dust). The relevant sites in respect of the Zone of Influence are:

Within 15km:

- Red Bog, Kildare SAC (Site Code: 000397)
- Mouds Bog SAC (Site Code: 002331)
- Pollardstown Fen SAC (Site Code: 000396)
- Wicklow Mountains SAC (Site Code: 002122)
- Poulaphouca Reservoir SPA (Site Code: 004063)
- Wicklow Mountains SPA (Site Code: 004040)

Other:

- South Dublin Bay SAC (Site Code: 000210)
- South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024)

The site is not located within a European site and there will be no direct impacts on the Natura 2000 sites.

Likely impacts

The AA Screening Report concludes that there are no impacts associated with designated habitat loss / degradation as a result of the proposed development, given the distance separating the site from those European sites within the zone of influence. I concur with this conclusion.

The AA Screening Report identifies that noise from construction activity has the potential to cause disturbance to resting, foraging and commuting qualifying species of the European sites. Based on a buffer zone of 300m from the noise source and based on the separation distance to European sites, the AA Screening Report screens out any significant impact from construction activities on qualifying species of European sites.

Within the identified 15km zone of influence are Wicklow Mountains SPA (Site Code 004040) and the Poulaphouca Reservoir SPA (Site Code 004063), with the qualifying species for the former being the Peregrine and Merlin, and for the latter being the

Greylag Goose and Lesser Black-backed Gull. Of particular interest are the Greylag Goose and Lesser Black-backed Gull, which are wintering waterbirds and potential for ex-situ impacts.

At its closest, the route of the underground cable is c. 6.5km west of the Poulaphouca Reservoir SPA and c. 10km west of the Wicklow Mountains SPA. Given this separation distance and given the relatively short duration of construction, including c. 1 month on private land, and nature of the works including that the ground would be reinstated following trenching, I consider it unlikely that the proposed development would cause significant ex-situ impacts on the qualifying interests of these SPAs.

In respect of the Red Bog, Kildare SAC (Site Code: 000397), Mouds Bog SAC (Site Code: 002331), Pollardstown Fen SAC (Site Code: 000396), Wicklow Mountains SAC (Site Code: 002122) and Wicklow Mountains SPA (Site Code: 004040) the authors of the AA Screening Report consider, on the basis of the localised nature and short duration of the construction works, distance separating the site from the aforementioned European Sites, intervening lands and lack of impact pathways, that the proposed development will not result in adverse effects to these European sites and are therefore screened out from further consideration.

The AA Screening Report identifies a hydrological connection between the site and the South Dublin Bay SAC (Site Code: 000210) and South Dublin Bay and River Tolka SPA (Site Code: 004024) via the Flemington South Stream. The stream flows in a southerly direction and drains into the River Liffey c. 2.9km downstream of the site, which, in turn, flows into Dublin Bay c. 35km to the northeast.

The AA Screening Report notes that there would be no in-river works required during the construction of the cable route and that the Flemington South Stream is culverted at the point where it will be crossed by the proposed cable, and there is sufficient cover within the local road (L6045) to accommodate the cable ducting, noting that where the cable intersects with a culvert, the culvert will remain in place with the cable going either above or below to minimum separation distance requirements.

The report identifies however that should run-off of potential pollutants from the construction area reach the surface or groundwater and flow into nearby watercourses, this could adversely affect the water quality with subsequent impacts on downstream habitats and species associated with European sites.

The AA Screening Report considers it unlikely that pollutants could impact on the water quality of the South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA based on the nature of the works, no in-river works, no direct discharges to surface or groundwater, and limited chance, if any, of pollutants reaching the European sites based on separation distances and dilution factor. I concur with this conclusion.

Similarly, I consider there is limited chance, if any, of pollutants reaching the Poulaphouca Reservoir SPA for the main reason that the discharge point of the Flemington South Stream into the River Liffey is c. 6km downstream of the Poulaphouca Reservoir SPA.

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Likely significant effects

On the basis of the foregoing, the construction or operation of the proposed development will not result in impacts that could significantly affect the conservation objectives of any European site, including the Red Bog, Kildare SAC (Site Code: 000397), Mouds Bog SAC (Site Code: 002331), Pollardstown Fen SAC (Site Code: 000396), Wicklow Mountains SAC (Site Code: 002122), Poulaphouca Reservoir SPA (Site Code: 004063), Wicklow Mountains SPA (Site Code: 004040), South Dublin Bay SAC (Site Code: 000210) or South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024).

In-Combination Effects

The AA Screening Report states that a review of the planning authority's ePlan website did not identify any current or previous granted plans or projects in the immediate vicinity of that are considered likely in combination with the proposed development to result in significant impacts on any European sites. The report identifies four extant permissions for land in the vicinity of the proposed gable route, namely the permitted solar farm (ABP-314320-22), with the other three permissions relating to a rural dwelling, farm shed and an amendment to a condition on a 1992 rural house permission.

The 2021 OPR Practice Note PN01 - Appropriate Assessment Screening for Development Management advises that in-combination effects must include the examination of proposed projects including for which an application for approval has been made, including refusals subject to appeal and not yet determined. In this regard, I note that the AA Screening Report does not include consideration of the live planning application pertaining to the proposed Battery Energy Storage System (BESS) (ABP-319518-24), the red line for which intersects with the route of the underground grid connection cable. The application was initially refused by Kildare County Council (P.A. Ref. 21/608) and a subsequent granted of permission by An Bord Pleanála (ABP-310841-21) was quashed by the High Court and remitted to the Board in 2024 for a new decision.

In respect of the remitted case (ABP-319518-24), in response to this notice, the applicant submitted further information in June 2025, including a revised AA Screening Report. The further information received was considered to be significant, and it was circulated to the various parties to the appeal for comment and readvertised as significant new information. A decision is pending.

I note that the BESS project would include an access track connecting the BESS site to the L6044. Plans show the access track continuing to the northwest to facilitate access to the proposed 220kV substation (subject to future SID application). Of relevance to the Section 5 referral is that, where it crosses the same land, the underground cable would be aligned along the same route as this access track to serve the BESS project.

Notwithstanding the above, should the construction of the proposed development occur in tandem with the permitted solar farm or indeed a Battery Energy Storage System (decision pending) and a 220kV substation (subject to future SID application), any impacts associated with the trenching for the underground cable would be of a temporary nature and short-term, given:

- the location of lands to be developed (predominantly roadside and agricultural)
- the limited nature of works (i.e. trenching and reinstatement of ground)
- where it interacts with the BESS site the underground cable is contained only on land that would be developed as an access track to serve the proposed BESS development.

- the expected duration/intensity of the works (c. 100m per day and to last c. 3 months on the public road and c. 1 month on private land),
- the implementation of standard and best practice construction and operation measures.

It is considered unlikely that in-combination effects with other plans or projects would arise.

Other proposals in the area, namely the Battery Energy Storage System (BESS) and 220kV substation will need to demonstrate the absence of adverse effects on site integrity of European Sites alone and in combination with other plans and projects, but I consider that no reasonable doubt remains that the proposed underground cable will not contribute to any significant effects that could arise.

Screening Determination

Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites within the identified Zone of Influence, namely Red Bog, Kildare SAC (Site Code: 000397), Mouds Bog SAC (Site Code: 002331), Pollardstown Fen SAC (Site Code: 000396), Wicklow Mountains SAC (Site Code: 002122), Poulaphouca Reservoir SPA (Site Code: 004063), Wicklow Mountains SPA (Site Code: 004040), South Dublin Bay SAC (Site Code: 000210) or South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore 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 indirect connections to European sites.

Having regard to the foregoing, it is reasonable to conclude, on the basis of the information on the file, which is considered adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on any

European Site, in view of the conservation objectives of these sites and that a Stage 2 AA and the submission of a NIS for the proposed development is not required.