Our Case Number: ABP-310143-21

Your Reference: Bord Na Móna Powergen Limited

An Coimisiún Pleanála

MKO Planning & Environmental Consultants
Tuam Road
Galway
H91 VW84

Date: 12 October 2026

Re: Construction of a wind energy development comprising approximately 50-55 no. wind turbines. In Ballydermot (and other townlands), Co. Offaly and Lullybeg (and other townlands), Co. Kildare.

Dear Sir / Madam,

Please be advised that following consultations under section 37B of the Planning and Development Act, 2000 as amended, the Commission hereby serves notice under section 37B(4)(a) that it is of the opinion that the proposed development falls within the scope of paragraphs 37A(2)(a) and (b) of the Act. Accordingly, the Commission has decided that the proposed development would be strategic infrastructure within the meaning of section 37A of the Planning and Development Act 2000, as amended. Any application for permission for the proposed development must therefore be made directly to An Coimisiún Pleanála under section 37E of the Act.

Please also be informed that the Commission considers that the pre-application consultation process in respect of this proposed development is now closed.

Attached is,

- **Appendix 1:** Prescribed bodies to be notified of the proposed development.
- **Appendix 2:** Schedule of Information which is considered necessary to submit in order to facilitate the undertaking of the Completeness Check under Section 37JA of the Planning and Development Act 2000, as amended.

Further notifications should also be made where deemed appropriate.

In accordance with section 146(5) of the Planning and Development Act, 2000 as amended, the Commission will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

Teil	**Tel**	(01) 858 8100
Glao Áitiúil	**LoCall**	1800 275 175
Láithreán Gréasáin	**Website**	www.pleanala.ie
Ríomhphost	**Email**	communications@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

The following information relates to challenges to the validity of a decision of An Coimisiún Pleanála under the provisions of the Planning and Development Act 2000, as amended.

Judicial review of An Coimisiún Pleanála decisions under the provisions of the Planning and Development Acts (as amended).

A person wishing to challenge the validity of a Commission decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Commission.

The validity of a decision taken by the Commission may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(7) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Commission. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, www.citizensinformation.ie.

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions, and it would be advisable for persons contemplating legal action to seek legal advice.

If you have any queries in the meantime, please contact the undersigned officer of the Commission or email sids@pleanala.ie quoting the above mentioned An Coimisiún Pleanála reference number in any correspondence with the Commission.

Yours faithfully,

Lauren Murphy

Lauren Murphy
Executive Officer
Direct Line: 01-8737285

PC09

Teil	Tel	(01) 858 8100
Glao Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	communications@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

Appendix 1 – Prescribed bodies

- Department of Housing and Local Government and Heritage
- Department of Climate, Energy and the Environment
- Department of Transport
- Department of Tourism, Culture, Arts, Gaeltacht, Sports and Media
- Department of Agriculture, Food & Marine
- Offaly County Council
- Kildare County Council
- Eastern and Midlands Regional Assembly
- Transport Infrastructure Ireland
- An Chomhairle Ealaíon (Arts Council)
- The Heritage Council
- Fáilte Ireland
- An Taisce
- Uisce Éireann
- Inland Fisheries Ireland
- Irish Aviation Authority
- Air Nav Ireland
- EPA
- HSE
- Health and Safety Authority
- The Commission for Regulation of Utilities
- ESB
- EirGrid

Further notifications should also be made, where deemed appropriate.

An Coimisiún Pleanála

Appendix 2 – Schedule of Information to Inform Completeness Check

This Schedule of Information seeks to provide details which will facilitate An Coimisiún Pleanála in undertaking the Completeness Check required by Section 37JA of the Planning and Development Act 2000, as amended in order to process the application. It shall not be construed as comprising an assessment of the application documentation or a consideration of the merits of the proposed development.

Details of Proposed Development at Closure

Pre-Application Ref.	ABP-310143-21
Prospective Applicant:	Bord na Móna Powergen Ltd.
Date of Final Meeting:	28th September 2026
Number of Turbines:	46 no.
Design Flexibility opinion:	No
Is Grid Connection Included:	Yes
Is a BESS included:	No
Accommodating works for TDR:	Yes

Information

Plans and Particulars	
Response Letter detailing Compliance with SIICC	Letter responding to all of the matters outlined below.
Public Notice	• Time Period for Consultation and Fee for Submissions • Standalone Website Address • EIAR and NIS referenced • Reference to Section 37JA • All townlands within the site boundary to be correctly referenced.
Prescribed Bodies	• Notification of All Prescribed Bodies and a copy of the correspondence sent to same.
Land Ownership	• Interest in land • Written consent of all other landowners (*Inc. legally binding agreement & land registry map if required)*
Design Flexibility	Design flexibility not sought.
Fee	
EIA Portal	Letter from Portal
Planning Statement	• Renewable Energy Designation Policy Statement • Statement outlining compliance with all relevant policies and objectives in the County Development Plan including a justification for material contravention of same if relevant. • Consultation overview • Community Benefit Fund • Planning history
Drawings	• Drawing Schedule • Site location map • Site layout plan • Plans, elevations, sections and cross-sections • Wayleaves shown • Grid Connection Route • Scales appropriate

EIAR	
No design Flex	Two turbine types (*19 no. wind turbines with turbine tip height of 200m, hub height of 115m, and blade rotor diameter of 170m; and 27 no. wind turbines with turbine tip height of 220m, hub height of 135m, and blade rotor diameter of 170m*) and grid connection to be assessed.
Non-Technical Summary	Provided as a standalone section.
Introduction	• Legislative context • Scoping Consultation • Community Engagement Report • Methodology/methodologies for the assessment of the environmental factors and for the description and consideration of the significance of effects • Study Area(s) and justification for same. • Project Team (Author qualifications, experience and expertise) • Technical Difficulties/Limitations
Description of the Proposed Development	• Detailed description (all stages) of the characteristics of the proposed development including use of natural resources, production of waste, emissions & disturbances • Table of Turbine Location Details • Construction Environmental Management Plan • Decommissioning Plan • Waste & Resource Management Plan • IPC Licence, bogland rehabilitation and establishment of baseline environment for related environmental factors.
Consideration of Alternatives	• Site selection & design process • Reasonable alternatives considered (Layout, scale, technologies, grid connection, turbine delivery, substation infrastructure, construction methodology, bog rehabilitation, etc)
Population and Human Health	• Population & Settlement Patterns • Economic Activity & Employment • Tourism & Amenities (Inc. recreational trails/waterways)

	• Human Health & Wellbeing (Reference Studies)

Biodiversity	• Derogations (Required/Obtained)
	• Ecological Impact Assessment
	• Biodiversity Enhancement Areas/Management Plan
	• Bat Surveys (to include):
	  o Preliminary Roost Assessment Surveys,
	  o Bat activity transect surveys,
	  o Static bat detector deployments,
	  o Emergence/re-entry bat roost,
	  o Hibernation
	• Invasive Species Management Plan
	• Terrestrial Surveys (*Habitat & ecology (inc protected flora, invasive plant species, mammals, amphibians and reptiles*)
	• Aquatic Surveys (*Habitat & ecology (inc river habitat, macroinvertebrate, electro-fishing, fisheries)*)
	• The appropriate terminology with respect to EIA and the mitigation hierarchy is the term 'offset' or 'offsetting' instead of compensation.

Ornithology	• Surveys (*Vantage Point, Breeding & non-breeding, hinterland, Dusk, Walkover, Roost & Winter surveys*) • Connectivity with European Sites • Collision Risk Model (CRM) Assessment • Monitoring Programme • Cumulative Assessment • Habitat Management for Ornithology • Ornithology - CIEEM (2024) are the appropriate guidelines instead of Percival (2003) to inform ornithological impact assessments.
Noise and Vibration	• Baseline Noise Levels • Map of all receptors within 4 x Tip of Turbines • Predicted Noise Levels • Proposed Noise Limits • Operational Noise Monitoring Proposal • Mitigation Strategy for Operational Amplitude Modulation and Tonal Noises • Cumulative Noise Assessment

Shadow Flicker	• Shadow Flicker Analysis • Wind Turbine Control Measures
Air and Climate	• Carbon Impact Assessment including Embodied Energy Assessment and Climate Change Vulnerability Assessment • Dust Generation/Emissions and Management • Vehicle Emissions and Management
Land, Soils & Geology	• Ground Condition Assessment (inc): o Ground Investigations Report o Site Investigations Report o On site precipitation monitoring and use of climate data o Ground and surface water monitoring (*using piezometres*) and in-situ hydraulic conductivity testing. o Slope Stability Analysis (*Justification of model employed. Deterministic model recommended*). • Peat and Spoil Management Plan
Hydrology, Hydrogeology & Water Quality	• Hydrological Assessment • Hydrogeological Assessment • Flood Risk Assessment • Surface water/Drainage Management Plan • Standalone Water Framework Directive Compliance Report • Emergency Response Plan • Water Quality Management Plan
Landscape & Visual	• Photomontages • ZTV Analysis (20km radius from development site) • Landscape Character Assessment • Viewpoint Assessment
Traffic & Transportation	• Turbine Delivery Route & Swept Path Analysis • Haul Route & Swept Path Analysis • Traffic and Transport Assessment • Traffic Management Plan (including Construction traffic) • Stage 1 Road Safety Audit • Design Report (TII requirements)

Material Assets	• Gas/ESB networks • Telecommunications Impact Study • Aviation Impact Assessment • Any other relevant material assets identified in consultation process
Cultural Heritage	• Heritage Impact Assessment & a Historic Landscape Character Assessment • Archaeological Impact Assessment
Major Accidents and Disasters	• Construction Stage • Operational Stage • Impact of Climate Change
Cumulative Assessment	Projects considered should be clearly identified and the location of the cumulative assessment clearly labelled within each Chapter as relevant.
Interactions of the Foregoing	Description of interactions between factors.
Compendium of Mitigation Measures	Intent expressed for the implementation of mitigation measures to be clearly set out as – 'shall'. Commitments need to be expressed clearly and be specific.
Compendium of Significant Effects	Chapter detailing all the pre-mitigation and post mitigation (residual) significant effects and magnitude/duration
Appendices	All appendices and sub appendices to be submitted in hard and soft copy. To include: • Glossary of Terms • Noise Survey Results & Calibration Certificates • Material Volume Calculations • Statement of Competency • Other relevant documents
AA Screening report	• Author qualifications, experience and expertise • Methodology • Zone of Influence (ZOI) and identification of relevant European Sites to be based on a Source-

	Pathway-Receptor Model using the precautionary principle
NIS	• Author qualifications, experience and expertise • Methodology • Collision Risk Modelling (CRM) • Biodiversity & Ornithology Surveys for QI & SCI species and habitats in accordance with Best Practice • Consideration of relevant Land, soils & geology reports/assessments* • Consideration of relevant Hydrological, hydrogeological & water reports/assessments* • Compendium of Mitigation Measures (*Intent expressed for implementation of mitigation measures – 'shall')* * *As stipulated above for EIAR.*
Appendices	All appendices and sub appendices to be submitted in hard and soft copy.
Other Documents (To include):	
	• Site Entrances • Access Tracks • Wind turbines • Cable routes & connections • Substation (Compound & Buildings) • Meteorological Mast • Temporary construction compounds • Borrow Pits & Deposition Areas • Haul Route • Turbine Delivery Route • Surface Water Design • Wastewater • Potable Water • Decommissioning & Restoration