S. 37

File With _____

SECTION 131 FORM

Appeal NO: ABP 313563

Defer Re O/H ☐

TO: SEO

Having considered the contents of the submission dated/ received 22/7/24

from

Applicant I recommend that section 131 of the Planning and Development Act, 2000 ~~be~~ not be invoked at this stage for the following reason(s):. No new issues

E.O.: _____ Date: 23/7/24

To EO: _____

Section 131 not to be invoked at this stage. ☐

Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.: _____ Date: _____

S.A.O: _____ Date: _____

M _____

Please prepare BP _____ - Section 131 notice enclosing a copy of the attached submission

to: _____

Allow 2/3/4weeks – BP _____

EO: _____ Date: _____

AA: _____ Date: _____

S. 37

File With _____

CORRESPONDENCE FORM

Appeal No: ABP 313583-22

M _____

Please treat correspondence received on 22/7 as follows:

1. Update database with new agent for Applicant/Appellant _____
2. Acknowledge with BP 23
3. Keep copy of Board's Letter ☐

1. RETURN TO SENDER with BP _____
2. Keep Envelope: ☐
3. Keep Copy of Board's letter ☐

Amendments/Comments

S131 Resp from Applt

L/D 22/7

4. Attach to file
(a) R/S ☐
(b) GIS Processing ☐
(c) Processing ☑
(d) Screening ☐
(e) Inspectorate ☐

RETURN TO EO ☐

	Plans Date Stamped ☐ Date Stamped Filled in ☐
EO:	AA: Dillon Corcoran
Date: 23/7/24	Date: 24/7/24

James

Ronan Mcgannety

From: Suzanne McClure <suzanne@brockmcclure.ie>
Sent: Monday 22 July 2024 15:20
To: Appeals2
Subject: 1st Party Appeal Response ABP 313583-22
Attachments: FINAL Huntstown ABP Response 20724.pdf

Dear Sir/Madam,

We, Brock McClure Planning & Development Consultants, 63 York Road, Dun Laoghaire, Co. Dublin, are instructed by our client, Huntstown Power Company Limited, The Generali Building (formerly The Liberty Centre), Blanchardstown Retail Park, Dublin 15 (D15 YT2H) to lodge this submission in response to a letter issued by An Bord Pleanála inviting a submission from the applicant in response to submissions made on appeal file (ABP-313583-22) by An Taisce and Fingal County Council.

The attached Appeal Response Report is submitted to An Bord Pleanala within the timeframe specified in the Bord's letter.

We would appreciate confirmation of receipt of this submission via email.

Kind regards

Suzanne

Suzanne McClure

Brock McClure
Planning & Development Consultants
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Dún Laoghaire
Co. Dublin

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Brock McClure

Irish Planning Awards 2023 Highly Commended

Submission to An Bord Pleanála

ABP Case No. ABP-313583-22

Fingal County Council Ref. FW21A/0151

On behalf of

Huntstown Power Company Limited

July 2024

Brock McClure

63 York Road,

Dun Laoghaire

Co. Dublin

www.brockmcclure.ie

Table of Contents

1 Introduction 3

2 Applicant Response to An Taisce Submission 4

2.1 Applicant Response to An Taisce 'Point no.1'. 4

2.1.1 It does not set out the framework for future development consent 4

2.1.2 The Statement is non-binding 4

2.1.3 The Statement is also not a "plan or programme" that required public participation. 5

2.1.4 Without prejudice to the fact that the Statement did not require SEA or public participation, it is important to emphasis that the applicant's project was designed and the application submitted prior to the Statement being issued. ..... **Error! Bookmark not defined.**

2.1.5 Data centres are not a class of EIA project 5

2.2 Applicant Response to An Taisce 'Point no.2'. 6

2.2.1 Climate Action and Low Carbon Development Act 2015 (as amended) (the "Climate Act") 6

2.2.2 EU Emission Trading Scheme 15

2.2.3 Renewable Additionality 15

3 Conclusion 16

1 Introduction

We, Brock McClure Planning & Development Consultants, 63 York Road, Dun Laoghaire, Co. Dublin, are instructed by our client, Huntstown Power Company Limited, The Generali Building (formerly The Liberty Centre), Blanchardstown Retail Park, Dublin 15 (D15 YT2H) to lodge this submission in response to a letter issued by An Bord Pleanála inviting a submission from the applicant in response to submissions made on appeal file (ABP-313583-22) by An Taisce and Fingal County Council.

These submissions were made following an initial invitation for submission issued by An Bord Pleanála regarding 2 no. matters which An Bord Pleanála proposes to take into account in deciding appeal reference ABP-313583-22, an application for the development of 2 no. data hall buildings on lands adjacent to Huntstown Power Station, North Road, Finglas, Dublin 11, as follows:

1. *Having regard to the adoption of the Fingal Development Plan 2023-2029 and the Government Statement on the Role of Data Centres in Irelands Enterprise Strategy (July 2022) since the lodgement of the appeal, the Board invites all parties to make any submission or observations on the proposed development noting in particular Objective DMS092 – Space Extensive Developments and the zoning objective "HI" Heavy Industry relating to the site for the proposed development in the plan and the principles for Sustainable Data Centre Development set out in the Government Statement. In particular, observations are requested on the agreed principle of Economic Development relating to the end user agreement; the principle of Grid Capacity and Efficiency relating to the connection agreement in place and the principle of Renewables Additionality in the Government Statement.*

2. *The Board also invites observation on how the proposed development aligns with the Climate Action Plan 2023, including addressing the matching demand and supply of renewable energy.*

At this stage we note that the Fingal County Council submission noted no comment on the appeal file, and therefore this submission has been prepared to respond only to the submission made by An Taisce, who responded to the Boards invitation for submission.

A response from the applicant is now provided in section 2 below to An Taisce's submission.

2 Applicant Response to An Taisce Submission

This Section has been prepared to provide a direct response to An Taisce's submission dated 13th June 2024.

2.1 Applicant Response to An Taisce 'Point no.1'.

Point no. 1 of An Taisce's submission suggests that the Government Statement on the Role of Data Centres in Ireland's enterprise Strategy (the "**Statement**") may have required SEA or SEA Screening; and falls under the ambit of the Aarhus Convention and should have been subject to public consultation, which as far as An Taisce is aware was not.

In response to these claims, we refer the Board to the below:

The Statement is not a plan or programme that requires SEA because it does not "set the framework for future development consent", as is required to trigger mandatory SEA under article 3(2)(a) of the SEA Directive or screening for SEA under article 3(4). We note that An Taisce's submission is speculative in that it only suggests that the Statement *could* constitute a framework for development consent. For the reasons set out below, it is clear that the Statement does not constitute such a framework.

For completeness, the Statement could also not have been subject to mandatory SEA by virtue of article 3(2)(b). This provision relates to plans and programmes which require appropriate assessment ("**AA**"). AA could not have been undertaken for the Statement in circumstances where no specific sites are identifiable or capable of being assessed by reference to the Statement. Protected sites and potential impacts are therefore not "sufficiently identifiable" such that AA would have been required (Case C-411/17, para. 80), or even possible. Mandatory SEA under article 3(2)(b) therefore does not apply to the Statement.

2.1.1 It does not set out the framework for future development consent

a. According to settled case law, a "framework for development consent" means measures which define rules and procedures for scrutiny applicable to the sector concerned and which thereby establish a significant body of criteria and detailed rules for the grant and implementation of one or more projects that are likely to have significant effects on the environment. The European Court of Justice has clarified that those criteria and detailed rules include the location, nature, size and operating conditions of projects, or the allocation of resources connected with projects (Case C-300/20, para. 62).

b. The Statement does not set out the framework for future development consent because it does not contain rules and procedures, or any criteria or detailed rules, which must be followed by applicants and in decisions for data centres. As noted by An Taisce, the Statement's principles are intended to "inform" and "guide" decisions. They are in no way prohibitive or restrictive on decision makers. It is therefore clear that the Statement does not meet the threshold established in case law to be considered a framework for future development consent and there was therefore no requirement for the Statement to be subject to SEA.

2.1.2 The Statement is non-binding

a. The Statement contains what are termed the Government's "preferences". Preferences are, by nature, indicative and non-binding.

b. It is established case law of the European Court of Justice that "provisions of purely indicative value do not satisfy the second condition set out in Article 3(2)(a) of Directive 2001/42. In order to satisfy that

condition, **they must at least be binding on the authorities with competence to grant development consent. Only acts of a mandatory nature are capable of limiting the discretion enjoyed by those authorities and thus of excluding certain modalities of implementation of projects which might prove to be more favourable to the environment, which is why such acts must be subject to an environmental assessment within the meaning of Directive 2001/42**" (Case C-9/22, para. 49).

c. The Irish High Court has applied this principle in finding that the Government Strategy "Food Vision 2030" did not require SEA because it is not binding (Friends of the Irish Environment CLG v an Bord Pleanála & Ors. [2023] IEHC 562 para. 96).

d. The Statement's principles are similarly non-binding. The principles are not mandatory and do not limit the discretion of the Board. There is no prohibition on the Board granting an approval for a data centre that does not align with the preferences contained in the Statement, nor is there an obligation on the Board to grant approval for a project that does align with the preferences, provided the Board has regard to the Statement and provides reasons for its decision. The Statement is therefore not a "plan or programme" that must be subject to SEA.

2.1.3 The Statement is also not a "plan or programme" that required public participation.

The requirement to make appropriate practical or other provisions for the public to participate during the preparation of plans and programmes relating to the environment derives from article 7 of the Aarhus Convention. That provision was adopted into EU law via article 2 of the Public Participation Directive (Directive 2003/35/EC). The Public Participation Directive lists plans and programmes that require public participation in Annex I, none of which apply to the Statement.

2.1.4 Data centres are not a class of EIA project

In addition, Article 3(2)(a) of the SEA Directive requires an environmental assessment to be carried out for all plans and programmes which "set the framework for future development consent of projects listed in Annexes I and II to Directive 85/337/EEC [since replaced by the EIA Directive 2011/92/EU, as amended]". The Statement was prepared for data centres, which are not a class of project listed in the annexes to the EIA Directive.

2.1.5 Without prejudice to the fact that the Statement did not require SEA or public participation, it is important to emphasise that the applicant's project was designed, and the application submitted prior to the Statement being issued.

While the applicant has demonstrated that the proposal is fully compliant with the principles contained in the Statement, no element of the project was formulated on the basis of, or in reliance upon, the Statement – nor could it have been, in circumstances where the design of the project was developed before the Statement was published and no material design changes have been proposed based on the Statement. The applicant's project therefore in no way relies on the Statement for approval for its proposed development. As the Board must have regard to the Statement, we confirm that the proposal is fully compliant with the Statement but, for the reasons set out above, the applicant has in no way relied on the Statement to justify the proposal.

2.2 Applicant Response to An Taisce 'Point no.2'.

2.2.1 Climate Action and Low Carbon Development Act 2015 (as amended) (the "Climate Act")

As noted by An Taisce, Section 15(1) of the Climate Act requires relevant bodies, in so far as practicable, to perform their functions in a manner consistent with:

a) *The most recent approved climate action plan,*
b) *The most recent approved long term climate action strategy,*
c) *The most recent approved national adaption framework and approved sectoral adaption 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".*

The planning application made to Fingal County Council (including FI), the response to the 3rd parties appeal and the response to FI request by ABP set out measures which demonstrated that the proposed development is consistent with Section 15(1) of the Climate Act. This section of the response reiterates those measures in response to An Taisce's submission.

S15(1)(a) - Climate Action Plan 2024

Climate Action Plan (CAP24) was published in December 2023 and was approved by the government on the 21 May 2024, making it the most recent approved climate action plan.

CAP24 sets a series of measures, actions, and key performance indicators. The section below demonstrates how the proposed development aligns with measures, actions and KPIs set out in CAP24.

INCREASING RENEWABLE GENERATION

"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".

- Increasing Renewable Generation/Renewable Additionality: A Renewable Energy Framework Agreement ("Framework Agreement") between Energia and Microsoft (end user) was executed in January 2021. Under the Framework Agreement, Energia has committed its renewable energy pipeline to Microsoft for the execution of CPPAs which are capable of underpinning new renewable energy generation calculated to offset the energy consumed by the proposed development from the electricity grid. Energia's current pipeline committed to Microsoft under the Framework Agreement includes approx. 900MW of new generation export capacity (consisting of 634 MW (MEC) of solar assets and 275 MW (MEC) of onshore wind assets).

Through these obligations, for every unit of energy consumed by the data centre, a unit of new renewable energy generation would be despatched to the wider electricity network to off-set it. In total, the CPPAs should see the collective annual generation exceed the data centre's annual electricity use which would also increase energy security through the development of renewable generation development within Ireland. This delivers the objective of operating the proposed development on an annual net energy zero basis that would support Ireland's overall climate targets.

Subject to a grant of planning permission, Energia Group is well positioned to deliver the renewable energy generation required to offset the energy demand of the data centre.

- Delivering Additional Grid Infrastructure: The Energia Group have engaged with EirGrid from the very start of the project. EirGrid have been supportive of the proposed location adjacent to existing generating power stations. The overall development includes the construction of a 220kV Substation, which is the subject of a separate application currently with An Bord Pleanála (ABP.311528). The 220kV substation, once commissioned, will be owned, and operated by EirGrid and form part of the national electricity grid.

  The design of the proposed substation and grid connection associated with the data centre was completed in conjunction with EirGrid as the design provides the grid services needed to strengthen the redundancy of the transmission network in north Dublin, making the electricity grid in the area more robust and resilient to faults. The associated 220 kV electrical substation will be connected to both Finglas and Corduff substations through a ring connection resulting in new flexibility for the electricity network operator and the ability for the electricity network operator to despatch the electricity generated by either power plant (Huntstown 1 and Huntstown 2) to either node.

TRANSFORMING THE FLEXIBILITY OF THE ELECTRICITY SYSTEM

"Transforming the flexibility of the electricity system by improving system services and increasing storage capacity"

- Flexibility of the Electricity System: Integrating large shares of variable renewable energy sources, in particular wind and solar, provides increased flexibility requirements for the grid system. As noted above, subject to a grant of planning permission, Energia Group is well positioned to deliver the renewable energy generation required to offset the energy demand of the data centre based on its approximately 900 MW renewable energy development pipeline. Energia Group has developed a pipeline consisting of 634 MW (MEC) of solar assets and 275 MW (MEC) of onshore wind assets.

  In additional to this, the following is also of relevance in terms of flexibility of the electricity system:

  - The proposed development has incorporated highly efficient technologies and methodologies allowing for a high degree of sustainability, which have been set out in the planning documentation on file. In particular, we refer the Board to the Section 9.1.7 of the Planning Report; the Energy Statement prepared by Ethos Engineering; and our response to the Board dated 13th June 2024. A key technology to be used as part of the proposed development is the use of uninterruptable power supply (UPS) batteries which will allow for real-time interaction with Ireland's power grid. On days when wind or solar power production is fluctuating, these backup batteries can be used to help maintain Ireland's power grid and to maintain a steady flow of energy to power customers. That means fossil-fuel burning power plants will be needed less often to maintain steady power, cutting emissions and fuel costs. The functioning of the UPS in a grid supporting function allows the available stored battery capacity of the data centre UPS systems to provide support to the grid. In practice this means that short disturbances can be absorbed by the grid by making available and leveraging the stored energy capacity of the data centre. These generally manifest themselves as voltage and frequency fluctuations. The use of this capacity will mean that the grid operators do not need to call on power plant operators to start additional generation to deal with such issues. As a result of less of demand on power plants, operators will have a consequential reduction in the run time on all generation plant including those the that really on fossils fuel as a source.

- As noted in the previous section, the design of the proposed substation and grid connection associated with the data centre was completed in conjunction with EirGrid as the design provides the grid services needed to strengthen the redundancy of the transmission network in north Dublin, making the electricity grid in the area more robust and resilient to faults. The associated 220 kV electrical substation will be connected to both Finglas and Corduff substations through a ring connection resulting in new flexibility for the electricity network operator and the ability for the electricity network operator to despatch the electricity generated by either power plant (Huntstown 1 and Huntstown 2) to either node.

NET ZERO DEMAND GROWTH

"Net Zero demand growth and calibrating renewable energy with demand will need to be pursued as a matter of urgency as a part of a longer-term decarbonisation pathway for the sector including for the third carbon budget".

A KPI listed under 'Demand Management' in Table 12.5 provides for *"Zero carbon demand growth"*

- Zero Carbon Demand Growth: Microsoft (the end user) has committed to achieving 100% renewable energy supply by 2025 and becoming carbon negative by 2030. The Framework Agreement between Energia and Microsoft, executed in January 2021, supports these goals and brings new, renewable energy to Ireland's grid in conjunction with the construction and operation of the proposed development. The Framework Agreement was specifically crafted for Energia to supply renewable energy to align with the electricity consumption of the proposed data development. As part of the parties' intent to operate a sustainable data centre, Energia has committed its renewable energy pipeline to Microsoft for the execution of CPPAs upon project's becoming construction ready.

  Energia has been actively developing renewable energy projects in the Republic of Ireland sine 2008 Energia's current pipeline committed to Microsoft under the Framework Agreement includes approx. 900MW of new generation export capacity, all of which applied for a 10-year planning permission. It can therefore be confirmed that the portfolio of consented renewable development projects, where developed, must be constructed within the associated planning permission duration. The proposed data centre has also applied for a 10-year planning permission. Therefore, the development of the consented renewable portfolio should be completed within the lifetime of the planning permission for the data centre.

  This delivers the objective of operating the proposed development on an annual net energy zero basis that would support Ireland's overall climate targets.

DISTRICT HEATING

"Up to 0.8 TWh of district heating installed capacity across both the residential *and commercial building stock by 2025, and up to 2.7 TWh by 2030"*

- District Heating: It has been calculated that the heat captured from the data centre will be between 25C and 30C. The applicant and end user are supportive of the development of a waste heat recovery and district heating scheme in conjunction with Fingal and have reserved space on site to accommodate the associated plant should a design be feasible. The design and construction of the Data Centre buildings to accommodate waste heat supply is contingent on the existence or the parallel development of a local waste heat receptor system.

MEASURES TO ACHIEVE FURTHER EMISSION REDUCTIONS

CAP24 sets out three key measures to achieve further emissions reductions between now and 2030. These include:

- Accelerate and increase the deployment of renewable energy to replace fossil fuels:
- Deliver a flexible system to support renewables
- Manage demand

Under each of these measures, actions have been provided. The below table sets out measures and relevant actions to the proposed development, as well as setting out how the proposed development aligns with these actions.

Accelerate and Increase the Deployment of Renewable Energy to Replace Fossil Fuels	
ACTION	DEVELOPMENT ALIGNMENT
Accelerate the delivery of utility-scale onshore wind, offshore wind, and solar projects through a competitive framework Target 6 GW of onshore wind and up to 5 GW of solar by 2025 Target 9 GW of onshore wind, 8 GW of solar, and at least 5 GW of offshore wind by 2030	A Renewable Energy Framework Agreement ("Framework Agreement") between Energia and Microsoft (end user) was executed in January 2021. Under the Framework Agreement, Energia has committed its renewable energy pipeline to Microsoft for the execution of CPPAs which are capable of underpinning new renewable energy generation calculated to offset the energy consumed by the proposed development from the electricity grid. Energia's current pipeline committed to Microsoft under the Framework Agreement includes approx. 900MW of new generation export capacity (consisting of 634 MW (MEC) of solar assets and 275 MW (MEC) of onshore wind assets). Subject to a grant of planning permission, Energia Group is well positioned to deliver the renewable energy generation required to offset the energy demand of the data centre.
Significant investment is needed in the transmission and distribution systems to maximise the usage of renewable electricity and to reduce constraints and congestion on the system.	The design of the proposed substation and grid connection (ABP.311528) associated with the data centre was completed in conjunction with EirGrid as the design provides the grid services needed to strengthen the redundancy of the transmission network in north Dublin, making the electricity grid in the area more robust and resilient to faults. The associated 220 kV electrical substation will be connected to both Finglas and Corduff substations through a ring connection resulting in new flexibility for the electricity network operator and the ability for the electricity network operator to despatch the electricity generated by either power plant (Huntstown 1 and Huntstown 2) to either node.

Manage Demand	
The overarching objective of managing electricity demand growth is to ensure, through a combination of energy efficiency and flexible electricity demand, that economic growth can be supported by low-carbon or no-carbon energy demand growth.	Microsoft (the end user) has committed to achieving 100% renewable energy supply by 2025 and becoming carbon negative by 2030. The Framework Agreement between Energia and Microsoft, executed in January 2021, supports these goals and brings new, renewable energy to Ireland's grid in conjunction with the construction and operation of the proposed development. The Framework Agreement was specifically crafted for Energia to supply renewable energy to align with the electricity consumption of the proposed data development. As part of the parties' intent to operate a sustainable data centre, Energia has committed its renewable energy pipeline to Microsoft for the execution of CPPAs upon project's becoming construction ready. Energia has been actively developing renewable energy projects in the Republic of Ireland sine 2008 Energia's current pipeline committed to Microsoft under the Framework Agreement includes approx. 900MW of new generation export capacity. all of which applied for a 10-year planning permission. It can therefore be confirmed that the portfolio of consented renewable development projects, where developed, must be constructed within the associated planning permission duration. The proposed data centre has also applied for a 10-year planning permission. Therefore, the development of the consented renewable portfolio should be completed within the lifetime of the planning permission for the data centre. This delivers the objective of operating the proposed development on an annual net energy zero basis that would support Ireland's overall climate targets. In addition, the site is strategically located adjacent to the Huntstown Power Station campus and is located in very close proximity to two high voltage nodes on the North Dublin electricity transmission system being the Finglas 220kV substation and Corduff 220kV substation. Locating the development adjacent to the electricity transmission system minimises the losses incurred in transporting electricity over longer distances,
Deliver a demand side strategy that facilitates zero carbon demand, incentivises low carbon electricity consumption, and aligns with EU energy efficiency requirements, while facilitating electrification targets	

	thus providing a more efficient design and management of electricity.
The demand side strategy should accelerate the rollout of local flexibility markets by the Distribution System Operator, as required to meet renewable electricity and carbon abatement targets and contain measures to incentivise Large Energy Users to increase the flexibility in their electricity demand.	Integrating large shares of variable renewable energy sources, in particular wind and solar, provides increased flexibility requirements for the grid system. As noted above, subject to a grant of planning permission, Energia Group is well positioned to deliver the renewable energy generation required to offset the energy demand of the data centre based on its approximately 900 MW renewable energy development pipeline. Energia Group has developed a pipeline consisting of 634 MW (MEC) of solar assets and 275 MW (MEC) of onshore wind assets. In addition, to the above, a key technology to be used as part of the proposed development is the use of uninterruptable power supply (UPS) batteries which will allow for real-time interaction with Ireland's power grid. On days when wind or solar power production is fluctuating, these backup batteries can be used to help maintain a steady flow of energy to power customers. That means fossil-fuel burning power plants will be needed less often to maintain steady power, cutting emissions and fuel costs. The design for the Huntstown Data centre includes for UPS with energy aware capabilities. The functioning of the UPS in a grid supporting function allows the available stored battery capacity of the data centre UPS systems to provide support to the grid. In practice this means that short disturbances can be absorbed by the grid by making available and leveraging the stored energy capacity of the data centre. These generally manifest themselves as voltage and frequency fluctuations. The use of this capacity will mean that the grid operators do not need to call on power plant operators to start additional generation to deal with such issues. As a result of less of demand on power plants, operators will have a consequential reduction in the run time on all generation plant including those the that really on fossils fuel as a source.

LONG TERM CLIMATE STRATEGY

"CAP24 and our Long-term Climate Strategy will set the strategic direction for meeting our climate targets".

"Ireland's current Long-term Climate Strategy, published in April 2023, builds on the decarbonisation pathways set by the carbon budgets, sectoral emissions ceilings and CAP23, to ensure coherent and effective climate policy. It is underpinned by analysis of transition options across each key sector of the economy and provides a crucial link between Ireland's 2030 and 2050 climate targets."

We refer the Board to the Section below which sets out our response to the Long-term Climate Action Strategy.

ELECTRICITY SECTOR SECTORAL EMISSION CEILINGS

"Electricity Sector: Sectoral Emission Ceilings: Carbon Budget 1 (2021-2025): 40 MtCO2eq; Carbon Budget 2 (2026-2030): 20 MtCO2eq"

Table 3.2 in chapter 3 of the Climate Action Plan 2024 illustrates the emissions reductions for each sector as required by the sectoral emissions ceilings for each carbon budget period.

The proposed development was assessed against the sectoral emission ceiling (we refer the Board to Attachment 5 of the submission dated 13th June 2024). The assessment concluded that, taking into consideration the emissions associated with proposed development relative to the Carbon Budget and the Emission Ceiling for the Electricity Sector; and the level of renewable additionality that will be provided under agreements between the applicant and Microsoft, the proposed development would result in a minor adverse impact (based on IEMA Methodology). We refer the Board to Attachment 5 (Section 1.57) of our submission dated 13th June which details the criteria for determining the significance of effects. Therefore, the Board has everything before it that it needs to assess the proposed development taking into account the current and relevant sectoral emissions ceilings.

S15(1)(b) - Long Term Climate Action Strategy

Ireland's Long-Term Strategy on Greenhouse Gas Emission Reduction was approved by government in April 2023

In relation to 'Electricity - State of Play' the Strategy sets out that *"The management of electricity demand will be a central part of our approach to achieving emissions reductions. Similarly, unlocking the flexibility of large electricity demand users will be a key challenge as the electricity system is decarbonised. Energy demand, including data centres, will be expected to operate within sectoral emissions ceilings and further signals will be required to locate demand where existing or future electricity grid is available and close to renewable energy generation. Research and development in energy storage and flexibility (such as a science challenge to industry) will be required to put Ireland on a pathway to net zero-carbon data centres".* (Emphasis Added)

The planning application made to Fingal County Council (including FI), the response to the 3rd parties appeal and the response to FI request by ABP set out measures included as part of the development which demonstrate alignment with the Long-Term Climate Action Strategy. These measures include:

- Sectoral Ceiling Emissions: As noted through the planning application documentation on file, it has been demonstrated that the proposed development can operate within the sectoral ceiling emissions. The proposed development was assessed against the sectoral emission ceiling. The assessment concluded that, having regard to: the emissions associated with proposed development relative to the Carbon Budget and the Emission Ceiling for the Electricity Sector; and the level of renewable additionality that

will be provided under agreements between the applicant and the end user, Microsoft, the proposed development would result in a minor adverse impact (based on IEMA Methodology).

- Locate Demand where Existing or Future Grid is Available: A Transmission Connection Agreement ("TCA") with Eirgrid to provide electricity to the proposed development has been executed by both parties (Huntstown Power Company Limited and Eirgrid) on 8 March 2021. (Ref. P28L). EirGrid as the national authority for the grid has the requirement to ensure that the connection will not impact or reduce the capacity available within the local network to support the neighbouring area. The TCA confirms that there is sufficient power available from the existing area network to facilitate the proposed development.

- New Renewable Energy in Proximity to the Site: The proposed development is located in north Dublin in close proximity to a large cluster of in development, in construction and operational large scale solar parks located in south Meath / north Dublin which will directly connect to the same part of the electricity transmission system as the Proposed Development. The total volume of solar parks expected to be constructed and connected in south Meath / north Dublin prior to 2030 is expected to be in the region of 2GW.

  Of the 2GW expected to be constructed and connection in south Meath/North Dublin, the Energia Group has a portfolio of 11. no solar farms totalling 634MW MEC (all of which form part of the Agreements between the applicant and the End User), and which are located with 35km of the Proposed Development as follows: 236MW MEC located between 0-15km; 368MW MEC between 15-30km; and 30MW MEC between 30-35km.

S15(1)(c) - National Adaptation Framework

The National Adaptation Framework was published in June 2024. Section 3.8 'Future Research Priorities' states *'Infrastructure Adaptation: Investigating how infrastructure, such as buildings, transportation, and energy systems, can be made more resilient to climate impacts, including retrofitting, sustainable design, and disaster preparedness'*. Section 5.9 *'Role of the Private Sector'* states that *'The private sector in Ireland holds a critical role in further enabling climate change adaptation by actively engaging in several key actions and responsibilities. Businesses and industries, being both affected by climate change impacts and contributors to adaptation efforts, are at the forefront of developing and implementing innovative technologies and practices to enhance climate resilience. This entails investments in renewable energy, sustainable agriculture, and efficient water management systems, for example. Collaborative partnerships with the government further empower businesses to fulfil their role in climate adaptation by pooling resources and expertise, innovation, fostering green job opportunities, and collectively working towards a more sustainable and resilient future for Ireland.'*

- Renewable Additionality:/Maximising the Use of Renewable: As noted previously, A Framework Agreement between Energia and Microsoft was executed in January 2021. Under the Framework Agreement, Energia has committed its renewable energy pipeline to Microsoft for the execution of CPPAs which are capable of underpinning new renewable energy generation calculated to offset the energy consumed by the proposed development from the electricity grid. Energia's current pipeline committed to Microsoft under the Framework Agreement includes approx. 900MW of new generation export capacity (consisting of 634 MW (MEC) of solar assets and 275 MW (MEC) of onshore wind assets).

  Through these obligations, for every unit of energy consumed by the data centre, a unit of new renewable energy generation would be despatched to the wider electricity network to off-set it. In

total, the CPPAs should see the collective annual generation exceed the data centre's annual electricity use which would also increase energy security through the development of renewable generation development within Ireland. This delivers the objective of operating the proposed development on an annual net energy zero basis that would support Ireland's overall climate targets.

- Technologies: The proposed development has incorporated highly efficient technologies and methodologies allowing for a high degree of sustainability, which have been set out in the planning documentation on file. In particular, we refer the Board to the Section 9.1.7 of the Planning Report; the Energy Statement prepared by Ethos Engineering; and our response to the Board dated 13th June 2024. A key technology to be used as part of the proposed development is the use of uninterruptable power supply (UPS) batteries which will allow for real-time interaction with Ireland's power grid. On days when wind or solar power production is fluctuating, these backup batteries can be used to help maintain a steady flow of energy to power customers. That means fossil-fuel burning power plants will be needed less often to maintain steady power, cutting emissions and fuel costs. The design for the Huntstown Data centre includes for UPS with energy aware capabilities. The functioning of the UPS in a grid supporting function allows the available stored battery capacity of the data centre UPS systems to provide support to the grid. In practice this means that short disturbances can be absorbed by the grid by making available and leveraging the stored energy capacity of the data centre. These generally manifest themselves as voltage and frequency fluctuations. The use of this capacity will mean that the grid operators do not need to call on power plant operators to start additional generation to deal with such issues. As a result of less of demand on power plants, operators will have a consequential reduction in the run time on all generation plant including those the that really on fossils fuel as a source.

- District Heating: It has been calculated that the heat captured from the data centre will be between 25C and 30C. The applicant and end user are supportive of the development of a waste heat recovery and district heating scheme in conjunction with Fingal and have reserved space on site to accommodate the associated plant should a design be feasible. The design and construction of the Data Centre buildings to accommodate waste heat supply is contingent on the existence or the parallel development of a local waste heat receptor system.

- Efficient Water Management: Microsoft, the facility end user, takes a holistic approach to water reduction across its businesses, from design to efficiency, looking for immediate opportunities through operational usage and, in the longer term, through design innovation to reduce, recycle and repurpose water.

  The proposed data centre uses direct free air instead of water for cooling and water from the public mains is supplemented through harvesting rainwater. Water storage is proposed to be provided for 48 hours for the evaporative cooling system. The design for the proposed Data Centre includes rainwater harvesting which is used in the administration building for the flushing of toilets and urinals. The design also includes water treatment and storage which the rainwater can pass through to be used in the evaporative cooling systems, reducing the reliance on the public water supply. Approximately 33% of the water used in the evaporative cooling process (blowdown water) is recovered and recirculated through the water treatment system so it can be re-used for cooling again.

S15(1) (d) &(e) - National Climate Objective & Mitigating Greenhouse Gas Emissions and Adapting to the Effects of Climate Change in the State

The National Climate Objective is defined as: *"The State shall, so as to reduce the further global warning, pursue and achieve, by no later than the end of the year 2050 the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy"*

The planning application made to Fingal County Council (including FI), the response to the 3rd parties appeal and the response to FI request by ABP set out measures included as part of the development which demonstrate alignment with the National Climate Objective as well as supporting the objective of mitigating greenhouse gas emissions. To avoid repetition, we refer the Board to all of the measures set out in the above sections, demonstrating alignment with: Climate Action Plan 2024, National Long Term Climate Action Strategy and the National Adaptation Framework. These measures support the National Climate Objective and mitigation GHG emissions.

2.2.2 EU Emission Trading Scheme

ETS calculations have been provided independent of the national/sectoral calculations but, importantly, the planning application has not relied on the ETS calculations for justification. The applicant has fully assessed the development against the national carbon budget and the sectoral emission ceiling. The assessment concluded that, taking into consideration the emissions associated with proposed development relative to the Carbon Budget and the Emission Ceiling for the Electricity Sector; and the level of renewable additionality that will be provided under agreements between the applicant and Microsoft, the proposed development would result in a minor adverse impact (based on IEMA Methodology).

2.2.3 Renewable Additionality

Following a positive decision by Fingal County Council, An Taisce lodged an appeal (dated 16th May 2022). It is noted that An Taisce did not seek a refusal of the application nor raise any issue with the addition of renewables, rather their appeal recommended that the amount of electricity generated by the new renewable energy projects should be equal to or greater than the electricity requirements of the data centre.

In response to the CRU consultation on 'Proposed Direction on Data Centre Grid Connection' (CRU21060), An Taisce again recommended that *"new data centre developments should only be considered for connection to the grid if they provide a new, directly linked supply of renewable energy or match their energy consumption with a commensurate or greater dedicated contribution to Ireland's renewables supply elsewhere in the country"*.

An Taisce in their recent submission on the proposed development, dated 13th June, refers to 'dilution' regarding renewable additionality with data centres. This view appears to be at odds with their own previous recommendations.

It is of note that the Climate Action Plan 2024 has outlined a path towards the electricity target by 2030 (i.e. 80% of Ireland's Electricity will be sourced from renewable energy). A Statement from the EPA relating to Greenhouse Gas Emissions Projection (May 2024) provides that under the 'with additional measures' scenario, the renewable energy generation from wind and solar, energy sector emissions are projected to reduce by 62 per cent and achieve over 80 per cent renewable electricity generation by 2030.

Furthermore, preliminary analysis by the EPA shows that there was a significant drop of almost 24% in emissions from electricity generation between 2022 and 2023. Additionally, with regards to Ireland's emissions, the EPA announced on 8th July 2024 that total emissions are down 6.8%, representing the largest ever single year reduction. This reduction has been achieved while still allowing the Irish ICT infrastructure sector and economy to be developed. It has been demonstrated throughout the planning process that the proposed application not only supports the development of ICT infrastructure, an essential enabler of our increasingly digital economy and society but has committed to the addition of new renewable energy development, thereby supporting the simultaneous progression of the ICT Sector and decarbonisation.

3 Conclusion

The response demonstrates that the Government Statement on the Role of Data Centres (July 2022), did not require SEA or SEA Screening, nor did it require public participation. Without prejudice to the fact that the Statement did not require SEA or public participation, the proposed development was designed, and the application submitted prior to the Statement being issued. While the applicant has demonstrated that the proposal is fully compliant with the principles contained in the Statement, no element of the project was formulated on the basis of, or in reliance upon, the Statement – nor could it have been, in circumstances where the design of the project was developed before the Statement was published and no material design changes have been proposed based on the Statement. The applicant's project therefore in no way relies on the Statement for approval for its proposed development.

The proposed development demonstrates consistency with Section 15(1) of the Climate Action and Low Carbon Development Act 2015 (as amended). The proposed development has been assessed against Climate Action Plan 2024 and the sectoral emissions ceiling having regard to the energy demand of the development and the renewable additionality. The assessment concluded that the proposed development would result in a minor adverse impact.

In granting permission for the proposed development Fingal Couty Council imposed a condition requiring details of a CPPA which demonstrated that the energy consumed by the development on site is offset with new renewable energy generation. The Applicant welcomes a similar condition to be issued by An Bord Pleanala. For clarity, we wish to highlight that the renewable additionality/CPPA referred to in the application does not assume a planning condition will be imposed. Even in the absence of such a planning condition, the legal agreements in place between Energy Group and Microsoft contractually obligates the applicant to provide new renewable energy via CPPAs, details of which were set out in our response to ABP dated 13th June 2024. The applicant is making an express and unqualified commitment to enter into the CPPA irrespective of the imposition of a specific planning condition.

The proposed development complies with national, regional and local planning policy as set out in National Planning Framework - Ireland 2040, the Regional Spatial & Economic Strategy, for the Eastern and Midland Region, 2020 and the Fingal County Development Plan 2023-2029 which seek to support the development of ICT infrastructure, including the provision of data centres. Having regard to the foregoing, it is submitted that the proposed data centre development complies with national, regional and local policy in relation to the provision of ICT infrastructure and data centres at appropriate locations. The proposed development is therefore in accordance with proper planning and sustainable development.