

File With _____

SECTION 131 FORM

Appeal NO: ABP 318180-23

Defer Re O/H

TO: SEO

Having considered the contents of the submission dated/ received 21/6/24
from

Jerry Mac Evilly I recommend that section 131 of the Planning and Development Act, 2000

~~is~~ not be invoked at this stage for the following reason(s): no w loss

E.O.: [Signature]

Date: 2/7/24

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: _____

File With _____

CORRESPONDENCE FORM

Appeal No: ABP 318180

M _____

Please treat correspondence received on 2/7 as follows:

1. Update database with new agent for Applicant/Appellant _____ 2. Acknowledge with BP <u>23</u> 3. Keep copy of Board's Letter <input type="checkbox"/>	1. RETURN TO SENDER with BP _____ 2. Keep Envelope: <input type="checkbox"/> 3. Keep Copy of Board's letter <input type="checkbox"/>
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Amendments/Comments

S 131 resp

4. Attach to file (a) R/S <input type="checkbox"/> (d) Screening <input type="checkbox"/> (b) GIS Processing <input type="checkbox"/> (e) Inspectorate <input checked="" type="checkbox"/> (c) Processing <input type="checkbox"/>	RETURN TO EO <input type="checkbox"/>
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	Plans Date Stamped <input type="checkbox"/> Date Stamped Filled in <input type="checkbox"/>
EO: <u>[Signature]</u>	AA: <u>Faehmie Rhotipore</u>
Date: <u>2/7/24</u>	Date: <u>3/7/24</u>

Dillon Corcoran

From: Bord
Sent: Friday 21 June 2024 15:31
To: Appeals2
Subject: Fw: Friends of the Earth response to correspondence re ABP-318180-23, FW22A/0308
Attachments: 20240621 Friends of the Earth Further Observations - FW22A-0308 - ABP 318180-23.pdf
Follow Up Flag: Follow up
Flag Status: Completed

From: Jerry Mac Evilly <jerry@foe.ie>
Sent: Friday 21 June 2024 3:26 pm
To: Bord <bord@pleanala.ie>
Subject: Friends of the Earth response to correspondence re ABP-318180-23, FW22A/0308

Caution: This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

Dear Mr Sweeney,

Please find attached further observations from Friends of the Earth in light of ABP correspondence concerning additional information from Mr Doyle (of 28 May 2024) re construction of data centre and associated works by Universal Developers LLC, Cruiserath Road, Dublin 15 (ABP-318180-23, FW22A/0308).

Grateful if you could confirm receipt.

Many thanks in advance for your consideration.

Kind regards,

Jerry Mac Evilly

Jerry Mac Evilly

Head of Policy

Friends of the Earth

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Registered Charity No 20205807

[Delivered by email to bord@pleanala.ie]
Mr James Sweeney,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1

Jerry Mac Evilly
Friends of the Earth Ireland
9 Mount Street
Dublin 2
D02 K659

21 June 2024

RE Observations on Third Party Submission of 28 May re construction of data centre and associated works by Universal Developers LLC, Cruiserath Road, Dublin 15

Case Number: ABP-318180-23
Reference Number: FW22A/0308

Dear Mr Sweeney,

In response to your correspondence of 4 June 2024, Friends of the Earth wishes to thank the Board for the information and welcomes the opportunity to provide observations on the submission of 28 May 2024 from Mr Colin Doyle.

The central message is that the EPA assessment raised by Mr Doyle is relevant to this case and must be considered by the Board.

It should be noted that it is not acceptable that the applicant in its recent response failed to integrate or respond to the then latest 2023 EPA emissions projections concerning the state's carbon budget programme as part of its recent updated environmental response.

It is further not acceptable that, although use of CPPA is raised, in order to ensure carbon budget alignment the applicant neither substantively addresses, nor commits to:

- Clear plans on electricity and gas demand reduction at the site
- A trajectory consistency with carbon budgets
- Clear commitments to ensure 'additionally' for new renewable energy associated with the development.
- A commitment to co-locate and prioritise sufficient renewable generation and energy efficiency measures onsite, ahead and/or in place of onsite gas generation.

We are of the view that the proposed development would therefore further undermine adherence with the state's carbon budget programme (which the EPA has noted is already being exceeded) and therefore the application should be rejected.

Friends of the Earth's comments on the latest information are set out in the paragraphs below.

- 1) We note Mr Doyle's submission raises the EPA publication from May 2024 'Ireland's Greenhouse Gas Emissions Projections 2023-2050' which 'provides an assessment of Ireland's total projected greenhouse gas emissions out to 2050 which includes an assessment of progress towards achieving its National ambitions under the Climate Action and Low Carbon Development (Amendment) Act 2021 and EU emission reduction targets for 2030 as set under the EU Effort Sharing Regulation (Regulation (EU) 2018/842)'.
- 2) The EPA report is available here together with associated documentation - <https://www.epa.ie/publications/monitoring--assessment/climate-change/air->

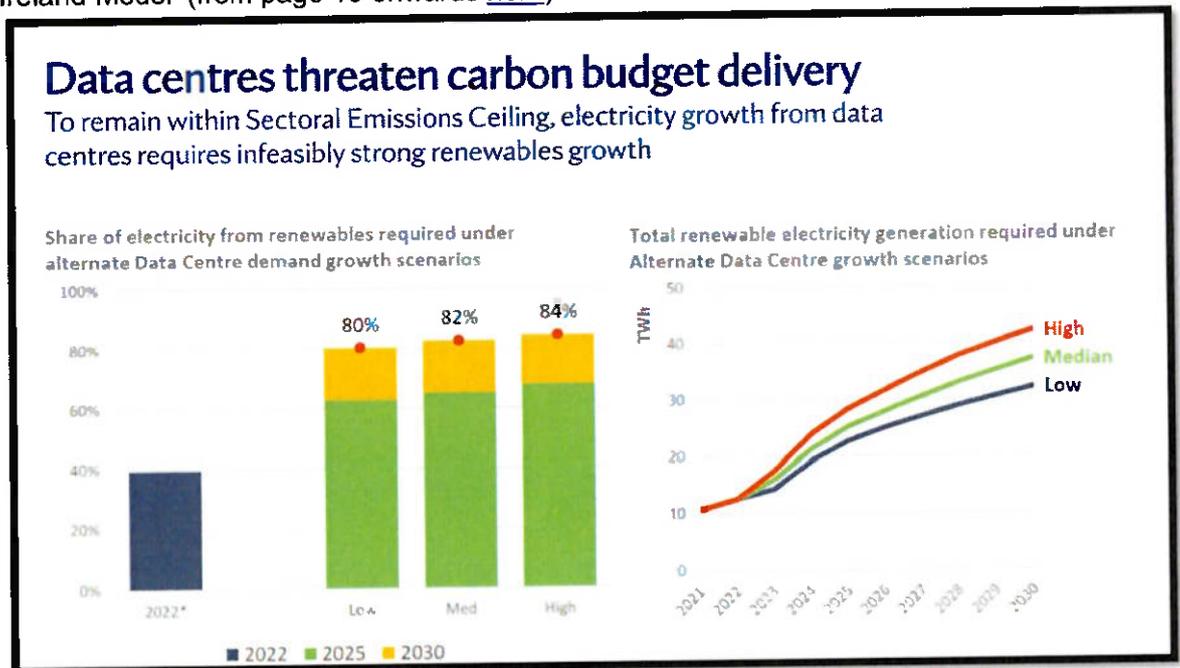
[emissions/irelands-greenhouse-gas-emissions-projections-2023-2050.php](https://assets.gov.ie/234926/2ebb2431-d558-4a54-a15c-605817c37b2f.pdf)

- 3) We support Mr Doyle's view that the latest EPA projects are salient to the case in question. We would underline that the EPA's assessment constitutes the state's authoritative and official analysis of emissions profiles and expected mitigation, and not information put forward by the applicant.
- 4) We support Mr Doyle's view that this information is relevant to the Board's requirement under s15 of the 2021 Climate Action, in particular the requirement to '*perform its functions in a manner consistent with— ... (d) the furtherance of the national climate objective, and (e) the objective of mitigating greenhouse gas ...*'
- 5) We agree that state's exceedance of current carbon budgets and the state's electricity Sectoral Emissions Ceiling must be taken into account. The EPA concludes that Ireland will reduce GHG emissions by only 29% 2030, far below the legally-binding target of 51% that is central to the Government's climate policy. It notes that '*Almost all sectors are on a trajectory to exceed their national sectoral emissions ceilings for 2025 and 2030, including Agriculture, Electricity and Transport*.' It further notes that '*The first two carbon budgets (2021-2030), which aim to support achievement of the 51 per cent emissions reduction goal, are projected to be exceeded by a significant margin of between 17 and 27 per cent.*'
- 6) It further notes: "*The Climate Action and Low Carbon Development (Amendment) Act 2021 sets a national climate objective of achieving a climate resilient and climate neutral economy by the end of the year 2050. An interim target has been set out to achieve a reduction of 51% in total emissions (including LULUCF) over the period 2018 to 2030. The projections show that implemented policies and measures in the With Existing Measures (WEM) scenario can only deliver an 11% reduction in greenhouse gas emissions by 2030 compared to the 2018 level. The [With Additional Measures] scenario, including policies and measures from the 2024 Climate Action Plan, is projected to deliver a 29% emissions reduction over the same period.*"
The upshot is that even implementation of all additional future planned Government measures still leaves a significant shortfall.
- 7) The EPA also highlight some progress in the energy sector, including that '*In combination with planned increases in 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.*' However, this should not be confused with the EPA's assessment that Ireland is not on track to meet carbon budgets including the electricity sectoral emissions ceilings¹.
- 8) We are unclear whether such large potential additional emissions associated with the proposed development (cumulative and residual), as well as additional gas fired generation, have been included in the analysis for this latest EPA's emissions projections.
- 9) We note Mr Doyle refers to the EPA consideration of renewables development, including any conceivable CPPA. We would underline that, even if this particular conclusion by Mr Doyle is unclear or open to question, the following must also be

¹ See here re the State's Sectoral Emissions Ceilings <https://assets.gov.ie/234926/2ebb2431-d558-4a54-a15c-605817c37b2f.pdf>

considered:

- As previously noted in previous submitted observation, data centre expansion puts Ireland's carbon budget programme at risk. A CPPA risks 'crowding out' renewables development which would otherwise be used to decarbonise the Irish electricity system. i.e. the applicant is seeking to make use of a renewable project that would otherwise be used to ensure emissions reductions nationally. UCC MaREI have indicated on the basis of their TIMES Ireland Model and SEC analysis that *'If significant growth in future renewable electricity generation is ultimately required mainly to serve strong data centre demand growth, this will further limit the potential for transport, buildings and industry sectors to meet their decarbonisation commitments. This is the case as replacing fossil fuels through electrification is also among the most cost-effective and achievable mitigation measures available in these other sectors.'*²
- See slide 22 of UCC MaREI presentation regarding 'Additional studies with TIMES-Ireland Model' (from page 16 onwards [here](#))



- Regarding Mr Doyle's statement on the overall emissions of the proposed development over the second carbon budget period, while Fingal's CCPA condition refers to the renewable generation being equal to or greater to the electricity requirements of the data centres, we are unclear as to how new renewable generation can be successfully matched in its entirety to the proposed development's consumption. While such generation may be purchased by Amazon, in order for it to be a genuine mitigation measure it must guarantee that this would prevent all such emissions and any usage of fossil fuel generation in Ireland and result in an emissions reduction commensurate with or equivalent to the emissions associated with fossil fuel demand.
- Fingal Co Co's CCPA requirement for this to be "new renewable energy project" is not sufficiently clear. It can be assumed that a "new" renewable project that either has or is likely to receive planning/connection agreement (but is yet to be built) will be used to

² https://www.friendsoftheearth.ie/assets/files/pdf/ucc_marei_-_research_report_-_final.pdf

decarbonise existing demand in the Irish electricity system, given existing Government policy commitments and schemes in support of such developments. It would not be appropriate for such renewable project(s) to instead be reserved purely for future data centre developments.

- 10) In Friends of the Earth's most recent observations (submitted on 24 May 2024) regarding the updated EIAR provided by applicant (Appendix 3 – AWN Environmental Response), we highlighted conclusions drawn by the EPA in its then latest 2023 GHG emissions assessment. These are repeated in the box below for ease of reference. We note that our conclusions made with regard to the 2023 EPA emissions projections hold true in light of the latest 2024 EPA assessment provided by Mr Doyle.

....Far from providing for data centre development, the Environmental Protection Agency in June 2023 noted: 'Almost all sectors are on a - trajectory to exceed their national sectoral emissions ceilings for 2025 and 2030, including Agriculture, Electricity Transport and Industry. In short the Sectoral Emissions Ceiling does not simply 'factor in' or in any sense justify the Proposed Development and the electricity and industry SECs are already at risk due to expanding electricity demand and an energy system that continues to be dominated by fossil fuel use. See further below.

Page 15 [of the applicant's Appendix 4]: *'there is no current evidence that there will be an exceedance of the Sectoral Emissions Ceiling. The recent DECC publication "Summary of Analysis to Support Preparation of the Sectoral Emissions Ceilings' (DECC, 2022) outlines the assumptions which have been used to derive the Sectoral Emissions Ceiling'.*

This assertion is manifestly false. For Friends of the Earth, it is so highly misleading on such a core element of the impacts in question that it calls into question several associated statements made. We find the applicant's assertion particularly problematic when the applicant has successfully quoted from several state reports, yet has provided the contrary position on such this state analysis.

The Environmental Protection Agency in June 2023 noted: '**Almost all sectors are on a trajectory to exceed their national sectoral emissions ceilings for 2025 and 2030, including Agriculture, Electricity Transport and Industry.** The first two carbon budgets (2021-2030) will not be met, and by a significant margin. Reaching the 2030 target requires implementing policies that deliver emission reductions across all sectors in the short term...All sectors, except Residential buildings, are projected to underperform relative to the sectoral emissions ceilings. Agriculture, Electricity, Transport and Industry sectors are projected to be the furthest from their sectoral ceiling in 2030.³ The EPA also state in this regard that decarbonisation actions are "being outpaced by increased energy demand across the economy and dependence on fossil fuels for energy generation."⁴

The EPA analysis underpinning these conclusions notes: '*A sensitivity analysis of the Commercial and Public Services sector With Existing Measures emissions scenario has been undertaken based the impact of higher demand growth in energy use in datacentres. The resulting alternative scenario is presented in Figure 16 alongside the WEM scenario. It shows that increased demand in data centres would likely lead to higher emissions over the projected period.*⁵

In its September 2023 response to the Government's consultation on its Long Term Strategy: "*Almost all sectors are on a trajectory to exceed their national sectoral emissions ceilings for 2025 and 2030,*

³ <https://www.epa.ie/news-releases/news-releases-2023/ireland-projected-to-fall-well-short-of-climate-targets-says-epa.php>

⁴ <https://www.epa.ie/news-releases/news-releases-2023/irelands-2022-greenhouse-gas-emissions-show-a-welcome-decrease-but-much-work-remains-to-be-done.php>

⁵ https://www.epa.ie/publications/monitoring--assessment/climate-change/air-emissions/EPA-GHG-Projections-2022-2040_Finalv2.pdf#page=15.14

including Agriculture, Electricity Transport and Industry. A continued lack of delivery of large-scale practical actions to decarbonise activities in all sectors will see us exceed our carbon budgets.”⁶

In its April 2024 response to the Government’s consultation on the 2024 Climate Action Plan, the EPA noted: *‘The EPA Inventory and Projections reports inform the monitoring of Ireland’s climate action. Unprecedented annual emissions reductions are required for Ireland to comply with national legislation, Carbon Budgets and Sectoral Emissions Ceilings.’⁷*

It should be noted that recent emissions reductions in certain sectors in 2022 and/or 2023⁸, while positive, should not be confused with the EPA’s assessment that Ireland is not on track to meet carbon budgets including electricity and transport sectoral emissions ceilings.

The 2022 DECC SEC calculation and assumptions of demand do not constitute the relevant assessment for conclusions on the state’s carbon budget and SEC compliance. The annual EPA projections constitutes the state’s official assessment.

Page 17 [of the applicant’s Appendix 4]

“Thus, in the context of the Sectoral Emission Ceilings, and where the Proposed Development is included under existing electricity demand forecasts there is no evidence that the Proposed Development would contribute to an exceedance of the Emissions Ceiling.”

We again underline that the high-level recognition of electricity demand does not constitute an approval of this specific additional demand from the proposed development nor does it guarantee that the specific additional demand is appropriate or that it will definitely be mitigated to a sufficient degree to accord with carbon budget obligations. Rather the matter at hand is to what extent will the proposed development supports or undermines adherence with the electricity and industry sectoral emissions ceilings. The requirement to transparently address this issue is made all the more necessary by the fact that Ireland is not on track to ensure compliance with the electricity and industry SEC....

11) In light of this latest EPA information, we again strongly reject the contention made in the Appendix 3 – AWN Environmental Response that *“...a net zero national grid is assumed to occur in 2050, whereas recent data from the ESB and UCC/MAREI suggests that this is likely to be achieved by 2040...”* The ESB and UCC/MaREI have not commented on the ‘likelihood’ of such projections, rather the technical means and scenarios of meeting such targets. Scenario planning regarding decarbonisation by state bodies of Ireland’s energy system does not constitute a reasonable assessment or guarantee of mitigation.

12) And again the annual EPA projections which address the state’s legally binding carbon budgets show that Sectoral emissions ceilings for 2025 and 2030 are projected to be exceeded including with regard to the electricity sector. This is the state’s official assessment.

13) Lastly, we reiterate the following conclusions:

- The applicant must demonstrate how the proposed development itself will not undermine and/or impose additional long-term pressures on carbon budget adherence.

⁶ <https://www.epa.ie/publications/corporate/submissions--position-papers/EPAC-0923-EPA-submission-on-LTS-for-GHG-Emissions-Reductions.pdf>

⁷ <https://www.epa.ie/publications/corporate/submissions--position-papers/EPAC-0524-EPA-response-CAP24-Final.pdf>

⁸ <https://www.climatecouncil.ie/news/press-release-statement-by-the-climate-change-advisory-council-on-irelands-greenhouse-gas-emissions.html>

It is not sufficient for the applicant to point to overall state plans re decarbonisation.

- As part of analysis of emissions impacts and trajectories by state and semi-state bodies, it is evidently necessary to assume potential future demands on the electricity system. **However**, such assumptions do not constitute an acceptance or approval of such demands by Government or state entities.
- The natural upshot of such an argument by the applicant would be that any polluting impacts, provided they are indirectly considered as part of the state's overall emission reduction analysis and trajectories, are somehow acceptable and a polluting entity can therefore continue to place demands while relying on overall state responses to decarbonise the energy system.
- Any acceptance of such an argument by the Board risks incentivising further polluting developments and/or for existing developments to pollute to the maximum extent theoretically envisaged possible or noted in state scenario planning. **Such an acceptance would be contrary to the state's legally binding carbon budgets and would raise legal concerns for Friends of the Earth.**
- We again underline that selectively choosing one potential emissions profile and scenario planning regarding decarbonisation of Ireland's energy system does not constitute a reasonable assessment. Such projections are based on a range of assumptions and measures which provide a pathway or template for implementation considerations, however they do not constitute the state's official assessment of existing measures and additional measures.

Conclusion

In light of the above, we remain of the view that the Board should reject the application.

We would like to thank the Board for their consideration and would be happy to provide further information upon request.

Is mise le mórmheas

Jerry Mac Evilly,
Head of Policy
Friends of the Earth