

SECTION 131 FORM

Appeal NO: ABP 318180-2B

Defer Re O/H

Having considered the contents of the submission dated/ received 24/05/2024
from

Jerry MacEvilly 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 material issues

E.O.: Pate B

Date: 28/05/2024

For further consideration by SEO/SAO

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: _____ Task No: _____

Allow 2/3/4weeks – BP _____

EO: _____

Date: _____

AA: _____

Date: _____

File With _____

CORRESPONDENCE FORM

Appeal No: ABP 318180-23

M _____

Please treat correspondence received on 24/05/2024 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 <u>Jerry Mac Evilly response to S.181</u>
<u>14/05/24: 04/06/24 ✓</u>

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>Pat S</u>	AA: <u>Anthony McNally</u>
Date: _____	Date: <u>30/05/2024</u>

Lisa O'Neil

From: Bord
Sent: Friday, May 24, 2024 9:59 AM
To: Patrick Buckley; Appeals2
Subject: FW: Friends of the Earth's observations on Environmental Impact Assessment Report - Case Number ABP-318180-23 Case FW22A/0308
Attachments: 20240524 ABP - Friends of the Earth Observations - FW22A-0308 - 318180-23.pdf

From: Jerry Mac Evilley <jerry@foe.ie>
Sent: Friday, May 24, 2024 9:56 AM
To: Bord <bord@pleanala.ie>
Cc: Oisin Coghlan <oisin@foe.ie>; David Rossiter <david@foe.ie>
Subject: Friends of the Earth's observations on Environmental Impact Assessment Report - Case Number ABP-318180-23 Case 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 Buckley,

In relation to our original objection, and following recent correspondence regarding Case FW22A/0308 (Case Number ABP-318180-23), please find attached Friends of the Earth's observations on the latest Environmental Impact Assessment Report submitted by the applicant regarding construction of data centre and associated works by Universal Developers LLC, Cruiserath Road, Dublin 15

Many thanks in advance for your consideration.

Kind regards,

Jerry Mac Evilley

Jerry Mac Evilley
Head of Policy

Friends of the Earth

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Registered Charity No 20205807

[Delivered by email to bord@pleanala.ie]
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Jerry Mac Evilly
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24 May 2024

RE Observations on Environmental Impact Assessment Report re construction of data centre and associated works by Universal Developers LLC, Cruiserath Road, Dublin 15

**Case Number ABP-318180-23
Case FW22A/0308**

Dear Mr Buckley,

Friends of the Earth welcomes the opportunity to provide observations on the latest Environmental Impact Assessment Report (EIAR) pertaining to our objection of planning approval by Fingal County Council on 18 September 2023.

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

The central message is that the applicant's latest information does not demonstrate how the proposed development would align with legally binding carbon budget obligations. Our concern remains that the proposed development would actively undermine the achievement of the state's carbon budget programme.

Prior to addressing the information, we highlight legal obligations relevant to the matters being considered.

[Climate Obligations on ABP and the applicant.](#)

(i) An Bord Pleanála

Section 15 of the 2015 Climate Act (as amended by the 2021 Act) addresses obligations on relevant bodies, including An Bord Pleanála. It notes:

"15(1) A relevant body shall, in so far as practicable, perform its functions in a manner consistent with— (a) the most recent approved climate action plan, (b) the most recent approved national long term climate action strategy, (c) the most recent approved national adaptation framework and approved sectoral adaptation plans, (d) the furtherance of the national climate objective, and (e) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State."

The Climate Action Plan and long-term strategy are instruments by which Government ensures consistency with carbon budgets which are legally binding. An Bord Pleanála is bound by these obligations. Compliance with the s.15 provision entails that An Bord Pleanála must address whether the proposed development aligns with the carbon budget programme provided for in the Climate Act. The Government subsequently set out the levels of these carbon budgets and associated sectoral emission ceilings in 2022 including for the electricity and industry sectors

which are most relevant to proposed development¹.

(ii) The applicant

We remain of the view that applicant has not demonstrated compatibility with carbon budget obligations and that by extension the Proposed Development does not constitute proper planning and sustainable development and therefore should be rejected. These issues are addressed in more detail in subsequent sections.

The information provided is either vague or misleading in its treatment of climate policy and emissions. We do not consider that it will ensure compliance with legal binding climate targets and the Government's Policy Statement on Data Centres. Friends of the Earth remains concerned that the proposed development represents a serious risk of carbon lock-in.

The basis for this position is that the proposed development will impose significant pressures on electricity sector decarbonisation due to increased electricity demand, as well as due to use of onsite diesel generation, and it is at best unclear how the operation of the proposed development over its lifetime will be compatible with increasingly stringent carbon budgets and Sectoral Emissions Ceilings.

We strongly reject the applicant's argument that the inclusion of expected demand from this site in EirGrid's demand projections suffice in terms of adherence with climate obligations. UCC MaREI has produced research on Irish electricity and gas demand to 2050 in the context of the state's climate obligations.² This research includes the following conclusions on data centre developments. We request that the Board considers the findings of this research. We do not consider that the applicant has addressed risks associated with data centre development noted in this UCC MaREI analysis.

- *Strong growth in data centre electricity demand... would substantially increase the challenges for the achievement of Sectoral Emissions Ceilings in the power, transport and buildings sectors. To remain within emissions ceilings, data centre demand growth represented in EirGrid's "High" scenario – a 500% in growth in electricity demand from data centres this decade – would require deployment of renewable electricity capacity at implausibly rapid rates: a quadrupling of renewable electricity generation this decade*
- *...reducing electricity demand growth from data centres and large energy users will reduce reliance on gas plants while enabling zero carbon electricity to be directed at displacing fossil fuels in industry, heat and transport*
- *While electricity demand growth from data centres is not the primary driver of increased gas-fired generation capacity, it creates an upwards pressure on power generation, which will drive additional fossil fuel usage and associated CO2 emissions until the power grid is fully decarbonised. All else being equal, EirGrid's "High" demand growth scenario would require a quadrupling of renewable electricity generation this decade – significantly beyond policy targets – and 31% more renewable energy generation than the "Low" demand growth scenario in 2030. However, even the "Low" growth scenario requires that 80% of electricity demand be derived from renewables in 2030.*

Appendix 3 - AWN Consulting Environmental Response

The following observations address statements made in the AWN Technical Environmental

¹ <https://www.gov.ie/en/press-release/dab6d-government-announces-sectoral-emissions-ceilings-setting-ireland-on-a-pathway-to-turn-the-tide-on-climate-change/>

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

Response (Appendix 3)

General Summary

Page 3

“Thus, the IEMA Guidelines (IEMA, 2022) are recognised throughout Ireland and the UK as the authoritative guidance on greenhouse gas (GHG) and climate impact assessment.”

- IEMA Guidelines (or any industry guidelines) do not replace or have higher legal standing than the state’s carbon budget programme under the 2021 Climate Act. This point is also relevant to the applicant’s assertions in subsequent sections.
- While the EPA does not have specific guidance on the topic, the applicant has not provided information on how the IEMA Guidelines are “recognised” as authoritative by independent bodies and experts.
- The applicant does not address how, why and whether other guidelines are used in other EU Member States.
- The applicant does not address how, why and whether IEMA Guidelines have been applied to other Amazon developments in other jurisdictions.

Page 4

“...including the installation of 285 Photovoltaic panels...” [see all several references to this same proposed measure throughout the document]

- The applicant does not address the reason for the 285 maximum. Additional solar PV and battery storage, including across extensive existing roof area and all appropriate buildings would be integral to preventing additional electricity system pressures and onsite diesel generation.
- We note such developments are common place at data centre sites in other jurisdictions, including those belonging to Amazon.³ We are unclear why this has been ignored in the case of this Proposed Development.

“...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.

³ <https://www.datacenterdynamics.com/en/news/uks-scc-deploys-solar-panels-on-birmingham-data-center-roof/>
<https://www.datacenterdynamics.com/en/news/stellium-datacenters-to-use-solar-power-at-newcastle-uk-data-center/>
<https://em360tech.com/tech-news/top-ten/microsoft-power-singapore-data-centre-rooftop-solar-panels>
<https://www.aboutamazon.eu/news/sustainability/amazon-unveils-its-largest-fulfillment-center-solar-panel-installation-in-europe>
<https://www.aboutamazon.com/news/sustainability/solar-power-delivers-a-win-win-win>

- We consider this assertion to be highly misleading.
- The applicant must demonstrate how the proposed development itself will not impose new, additional and long-term pressures on the electricity system and carbon budgets. It is not sufficient for the applicant to point to overall state plans for decarbonisation.

“the assessment assumed continuous 100% operational load for the data centre development, however annual average load is likely to be closer to 80%” [with regard to the DECC publication ‘Summary of Analysis to Support Preparation of the Sectoral Emissions Ceilings’]

- DECC does not comment on likelihood in the document in question.
- The relevant DECC statement is in a footnote which states “Data centre capacity is based on the EirGrid forecast of 790-1770 MW by 2030, assuming a load factor of 80%”. This refers to a (now out-of-date) assumption for EirGrid’s calculation of potential data centre capacity.
- We consider the applicant’s framing to be highly misleading.

“the Proposed Development will replace existing and future computing, and IT activities which have a higher GHF profile, with savings of up to 80%...”

- The application has not substantiated the statement that the Proposed Development will “replace” such computing nor the 80% savings claim.
- The statement assumes the Proposed Development is to be used *solely* to replace existing local IT storage. It is evident that the Proposed Development would be used at least in part, if not in the main, to provide additional storage for new customers.

*“the committed mitigation (Corporate Power Purchase Agreement (CPPA) for new renewable energy) will mitigate **any** residual GHG emissions”*

- This claim is not substantiated with adequate analysis.
- This does not address emissions associated with use of onsite diesel generators.

Page 4-5

“The precautionary approach of utilising CPAs as a mitigation measures should also be noted. Given that the national grid will likely to achieve net zero significantly before 2040; it can be argued that even in the absence of CPPAs the pre-mitigation could, in actual fact, be characterised as minor adverse, as the trajectory of GHG emissions will align with the 1.5C compliant trajectory and achieve net zero in advance of 2050 with the national grid predicted to obtain net zero by 2040 (ESB Networks, 2023).”

- The applicant must demonstrate prevention/mitigation of its impacts, as opposed to general assertions regarding future systems it relies on.
- As noted above, state authorities have not commented likelihood.
- The applicant must address its emissions impact now (i.e. if developed) not future general state emissions.

- The state is currently not on track to meet its existing carbon budget obligations. **See further below.**
- Data centre expansion puts Ireland's carbon budget programme at risk. **See further below.**
- The state's climate objectives and carbon budget programme, while significant, are not 1.5C aligned. 1.5C aligned would require an even earlier full decarbonisation and fossil fuel phase out than currently provided for in the 2021 Climate Law.⁴

Section 1

Section 1.3 Page 6

"As set out in the JSA response document under Amazon's publicly available Renewable Energy Methodology, Amazon works with energy companies around the globe to develop new renewables projects...which is aligned with the CPPA Roadmap..."

- Amazon's internal, corporate methodologies are not binding obligations and may be subject to change.
- The application of such methodologies or roadmaps does not necessarily equate to measures and investments which would prevent additional electricity demand and use of onsite diesel generation.

Section 1.4 Page 7-8

"Thus, CPPAs are now recommended by the IEMA, 2020) as an appropriate project specific "substitution" mitigation measure....In summary, CPPAs are fully in line with national and EU policy..."

- CPPAs potentially being in adherence with the applicant's chosen guidelines is not the same as adherence with the state's carbon budget programme. See further below.

Section 3.3. Page 12

"Referring to the High Court's judgement in Coyne..."

- With regard to legal cases raised by the applicant both here and in other documentation, while a comprehensive analysis has not been carried out, we would caution that such cases may not have considered the state's legally binding carbon budget programme and sectoral emissions ceilings for the electricity and industry sectors introduced in 2022.
In this regard, earlier judgements made may not have had regard to current policy. See also statements made in the applicant's section 5.

Section 3.4 Page 12

⁴ Ireland's climate actions plans and objectives form part of the EU's overall Nationally Determined Contribution to the UNFCCC. See analysis here re non-alignment with <https://climateactiontracker.org/countries/eu/>

“...In conclusion, the assessment of the Proposed Development has been undertaken using the correct methodology as outlined in the most appropriate guidance document...with the predicted impact being correct contextualised in terms of the EU ETS and electricity emissions ceiling”.

- The paragraph's quoted from the Coyne case appear to pertain to the relevancy and application of the ETS system. (We reserve judgement on how and whether the applicant intends to apply EU ETS certification.)
- The applicant has in no way addressed with any substantive information how the applicant is ensuring alignment with the state's electricity sectoral emissions ceiling.
- We also note the relevance in this case of the industry sectoral emissions ceiling which has been excluded in this case.
- Application of the EU ETS for larger generators does not replace or pre-empt necessary compliance with the state's carbon budget programme. See further below.

Section 4 Page 14: *“it is demonstrated below that the Proposed Development.. will not result in unforeseen demand as there is an existing connection agreement in place since 2017 with that demand built into all forecasts, as such it will not affect sectoral ceilings or the predicted quantity of conventional (fossil fuel) generation.”*

- The applicant must demonstrate how the proposed development itself will not impose long-term pressures on the electricity system and carbon budgets. It is not sufficient for the applicant to point to overall state plans for 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. This acceptance would be contrary to the state's legally binding carbon budgets and would raise legal concerns for Friends of the Earth.

Page 14

“...a CPPA for the power demand for the proposed project has been welcomed and conditioned under the Planning Authority's decision to grant permission (A similar approach and condition by the Board would be welcomed.”

- As previously noted, we are concerned that use of a CPPA will 'crowd 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.'*⁵

- Regarding 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 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.
- 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 renewable generation can be matched to data centre consumption. While such generation may be purchased by Amazon, in order for it be a genuine mitigation measure it must guarantee that this would prevent 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.

Page 15

- As previously noted, in relation to the applicant's comments on the 2023 Climate Action Plan, potential overall integration of any and all industrial development in the electricity sector projections, do not constitute an approval of such additional demand or a guarantee that their demand is appropriate or that it will definitely be mitigated to a sufficient degree to accord with carbon budget obligations. It also does not follow that inclusion in the state's overall projections or scenario planning means that the Proposed Development should be accommodated or that it should not have to put in place new and additional mitigation measures.
- It is reducing demand that is integral to ensuring carbon budget compliance. The 2024 Climate Action Plan includes measures and commitments on demand management and demand flexibility.
- It is also important to note that the Climate Action Plan, while an important policy mechanism, does not simply provide for carbon budgets compliance in and of itself. Indeed the 2024 Climate Action Plan⁶ rather emphasises the need for a range of further measures to close the gap on existing carbon budgets.

Page 15: *"While reflecting marginally lower demand...than current EirGrid projections, the "proposed scenario" taken in to account in developing the Sectoral Emissions Ceilings includes the growth of data centres with contracted demand such as the Proposed Development factored in."*

⁵ https://www.friendsoftheearth.ie/assets/files/pdf/ucc_marei_-_research_report_-_final.pdf

⁶ <https://www.gov.ie/pdf/?file=https://assets.gov.ie/293730/00ee6688-fc2a-4897-8077-de73280ec7fc.pdf#page=null>

- We request that ABP considers our responses above to Section 4 Page 14: “it is demonstrated below...”
- 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: ‘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.’⁷ 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.”⁸
- 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.’⁹
- 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, including Agriculture, Electricity Transport and

⁷ <https://www.epa.ie/news-releases/news-releases-2023/ireland-projected-to-fall-well-short-of-climate-targets-says-epa.php>

⁸ <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>

⁹ https://www.epa.ie/publications/monitoring--assessment/climate-change/air-emissions/EPA-GHG-Projections-2022-2040_Finalv2.pdf#page=15.14

Industry. A continued lack of delivery of large-scale practical actions to decarbonise activities in all sectors will see us exceed our carbon budgets.”¹⁰

- 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.’¹¹*
- It should be noted that recent emissions reductions in certain sectors in 2022 and/or 2023¹², 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

“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.

Page 20-21 *“Further conservative approaches in the reasonable worst cases assessment are as follows:....the power generation mix in 2030 is forecast by EirGrid....net zero electricity data by 2040 [from] ESB and UCC/MarEI...”*

- 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.

- As noted above, the EPA’s official assessment highlights that Ireland is not on track to

¹⁰ <https://www.epa.ie/publications/corporate/submissions--position-papers/EPAC-0923-EPA-submission-on-LTS-for-GHG-Emissions-Reductions.pdf>

¹¹ <https://www.epa.ie/publications/corporate/submissions--position-papers/EPAC-0524-EPA-response-CAP24-Final.pdf>

¹² <https://www.climatecouncil.ie/news/press-release-statement-by-the-climate-change-advisory-council-on-irelands-greenhouse-gas-emissions.html>

remain within its carbon budget programme. In addition, in the context of EU compliance, the EPA note *'The latest EPA projections show that currently implemented policies and measures (With Existing Measures) will achieve a reduction of 10% on 2005 levels by 2030, significantly short of the 42% reduction target. If policies and measures in the higher ambition (With Additional Measures) scenario are implemented, EPA projections show that Ireland can achieve a reduction of 30% by 2030, still short of the 42% reduction 'target.'*¹³

Page 22: *'the assessment has been based on 100% operation at all times where in reality the long-term average for these facilities will be 80% capacity (as shown in Figure 2 where EirGrid assumed an 80% load factor for data centres).'*

- The applicant appears to seeking to justify expected operation based on EirGrid assumptions. We reserve judgement on the suitability of the 80% figure, however the means of assessing such operation/capacity should be based on a specific commitment from the applicant, not a general system operator assumption.

Page 22: *'By 2030, the grid based on the EirGrid analysis will be 83% renewables and thus the power supplied to the Proposed Development will be overwhelmingly renewable'*

- Again this amounts to a deliberate misreading of energy system analysis. EirGrid has addressed how the electricity network can be developed to accommodate high renewable generation under certain conditions and dependent on a huge range of necessary measures, several of which remain in doubt (not least electricity grid rollout and reform of the planning system). It does not amount to any sort of a guarantee that this figure will be achieved.

Page 24: *'The Proposed Development is designed to fully comply with the Climate Neutral Data Centre Pact. The Proposed Development has an annualised design Power Usage Effectiveness (PUE) of 1.12...'*

- The assertions and subsequent bullets do not provide any form of clear quantification of the actual emissions mitigation which will be achieved. They merely constitute a list of broadly relevant activities.

Page 26: *'Given the use of electricity to power the facility will achieve net zero by 2050 and the commitment to meet all interim fossil fuel derived GHG emissions associated with Proposed Development by the purchase of Corporate Power Purchases Agreements (CPPAs) the predicted impact to climate is deemed to be indirect, long-term, negative and minor adverse... Taking a conservative approach, when the CPPAs are taken into account, it is clear the post-mitigation the impact of the Proposed Development will be better than the 1.5C compliant trajectory...'*

- The absence of any emissions figures and the failure to use the state's official emissions analysis and projections by the EPA mean the conclusions are at best not substantiated and at worst inaccurate.
- As noted above, the state's decarbonisation commitments and carbon budget obligations are progressive, however they are not in accordance with Paris Agreement

¹³ See https://www.epa.ie/publications/monitoring--assessment/climate-change/air-emissions/EPA-GHG-Projections-2022-2040_Finalv2.pdf

1.5C pathways. It is therefore not possible to conclude that the applicant will be better than a 1.5C trajectory.

- With the exception of references to Corporate PPAs there is essentially no decarbonisation plans for the site nor any intention to make emissions data associated with generators available.
- Demand side management, energy efficiency measures, battery storage and use of solar on all available rooftops does not appear to have been considered by the applicant. This approach greatly undermines suggestions of support for net zero emissions alignment.
- The applicant also fails to address the revised EU Energy Efficiency Directive, as well as the new EU Corporate Sustainability Due Diligence and Reporting Directives which will require data centre companies to improve efficiency standards, to undertake cost best analyses in support of same, as well as to publicly disclose information on energy performance, carbon emissions and environmental impacts.

Page 28

- Regarding assertions concern using of gas generation, increasing renewables and the applicant's corporate CPPAs, it is important that ABP takes account of the state's Climate Change Advisory Council review of the electricity sector. It notes in particular: *'At present, the expansion in renewable electricity generation capacity is significantly outpaced by the growth in electricity demand, largely driven by data centres. It will be increasingly difficult to remain within the carbon budgets if data centres continue to be connected before the country has the renewable capacity to accommodate them. To remain within the carbon budgets and avoid the need for steeper sectoral emissions reductions in future, the Government must both increase the roll-out of renewables and manage the growth in electricity demand to ensure that it remains in line with renewable generation capacity.'¹⁴ In essence, no conclusion is drawn by the CCAC or any other state authorities that the impacts of large data centre developments are low or negligible.*

Page 29-30

- In relation to statements made by the applicant concerning use of CPPAs, see comments above concerning additionality.

Section 5.3. page 33-34

- The applicant notes that Friends of the Earth's "assertion that national legislation has been ignored at the expense of EU legislation is clearly incorrect". This is not a fair representation of our concern. To provide the background, the information provided by the applicant to Fingal Co Co as part of the original application addressed ETS and in the opinion of Friends of the Earth appeared to suggest that this information was sufficient simply due to references to the ETS in the 2021 Climate Action Plan and 2023 Climate Action Plan. We rejected this argumentation.
- To provide some further detail, in information provided to Fingal Co Co, the applicant referred to general information on the ETS in the 2023 Climate Action Plan and made

¹⁴ <https://www.climatecouncil.ie/councilpublications/annualreviewandreport/AR2024-Electricity-final.pdf>

the misleading assertion that *"thus the indirect electricity emissions and the direct emissions from backup diesel generators will both require greenhouse gas permits under the ETS in order to operate and thus the GHG emissions associated with the Proposed Development will be in line with Section 13.3.5 of the 2023 CAP which stresses the importance of the EU ETS in reducing industry GHG emissions"*.

- As a result, in Friends of the Earth's objection we noted 'the ETS system does not replace or take legal primacy over the state's carbon budget programme. Indeed any such erroneous interpretation if accepted would have removed the need for, and the legal effect of, the 2021 Climate Act in the first place. We have legal concerns regarding Fingal Co Co's failure to address this misrepresentation.'
- The applicant has now simply summarised in this latest EIA submission provisions under EU ETS and the Climate Act. Therefore, we consider that in this section 5.3 the applicant has again failed to demonstrate compliance with the carbon budget programme.

Section 6.3 pages 35 to 36

- In the 2023 Climate Action Plan it is noted: *"In the short- and medium-term, new demand growth from large energy users, such as data centres, will have to be moderated to protect security of supply and ensure consistency with the carbon budget programme"*. The 2023 Climate Action Plan notes that demand growth from data centres will need to be "moderated" and "achieve carbon-free demand".
- In this latest EIA submission, the applicant notes that these CAP 2023 commitments, as well as the Government's most recent policy 'Government Statement on the Role of Data Centres in Ireland's Enterprise Strategy', and suggest that policies only apply to 'new unforeseen demand growth and not 'existing' demand such as the Proposed Development.
- Friends of the Earth would underline that if Government policy was intended to only apply to new development it would have stipulated clearly this differentiation. At no point do any relevant Government policy commitment suggest that any contracts in EirGrid's energy projections and modelling are simply excluded. Indeed such an interpretation would have the perverse effect of actively undermining/relevant the stipulations and policy commitments included in the CAP2023 (and 2024) and the Government statement on data centres.
- We again conclude that the applicant is not demonstrating how it will seek to reduce demand nor does it provide an analysis of emissions savings that will be brought about by mitigation measures. Therefore, the information provided does not demonstrate consistency with the carbon budget programme, nor with moderation or decarbonisation of its electricity demand.
- It should also be noted that the 2024 Climate Action Plan¹⁵ released on 21st of May 2024 it states DECC will assess whether mandated caps on any increase in fossil fuel demand by large energy users could be put in place from 2026. No such differentiation is made between 'new unforeseen demand growth' and 'existing'.

¹⁵See <https://www.gov.ie/pdf/?file=https://assets.gov.ie/293730/00ee6688-fc2a-4897-8077-de73280ec7fc.pdf#page=null>

- The applicant has not transparently respond to or demonstrated compliance with the following requirements in the Government's 2022 Statement on the Role of Data Centres, in particular parts underlined:
 - *"The capacity constraints experienced by our electricity system today, and the binding carbon budgets that require rapid decarbonisation of energy use across all sectors, necessarily mean that not all existing demand for data centre development can be accommodated."*
 - *In current circumstances, this renewable generation requirement would be additional to c. 120 MW of non-variable generation (typically gas-powered) to provide for the data centre when weather conditions cause renewable output to be low. Given the intermittency of our renewables, flexibility of data centre demand to 'match' renewable generation will become increasingly important in future and can assist in meeting our decarbonisation objectives*
 - *"...it is essential that developments are consistent with a planned trajectory to net zero emissions..."*
 - *The Government has a preference for data centre developments that can demonstrate the additionality of their renewable energy use in Ireland. Developments should provide clear additionality in renewable energy delivery in Ireland, whether through new generation, repowering or otherwise increasing in-country renewable energy capacity – proportionate to the impact of their energy demand.*
 - *The Government has a preference for data centre developments in locations where there is the potential to co-locate a renewable generation facility or advanced storage with the data centre, supported by a CPPA, private wire or other arrangement*
 - *The Government has a preference for data centres developments that can demonstrate a clear pathway to decarbonise and ultimately provide net zero data services.*

The information by the applicant provided does not provide additional information on:

- A reduction on data centre electricity demand
- A trajectory consistency with net zero emissions
- Clear commitments to pass the 'additionality' test for renewable energy use as noted above
- A commitment to co-locate renewables on site.
- A clear pathway to decarbonisation and provide net zero services.

Pages 36 to 37

- The applicant summarises mitigation measures in the Government's Long-term Climate Strategy. It then contends that *"Proposed Development is in line with this strategy as the electricity associated with the project, due to commitments in the CAP 23, will reduce in line with national policy and in line with EU policy as outlined in the EU Climate Law (EU, 2021)...."*
- Friends of the Earth's interpretation is that the applicant has stated in short that the Proposed Development is acceptable and aligns with the Government's long term strategy due to the state's own national policy and EU policy.
- The argumentation is confusing, circular, unclear and unhelpful. Analysis is essentially absent and the conclusion cannot be accepted.

Section 6.4 page 39

“The Proposed Development furthers the national climate objective as the Proposed Development and Overall Project will operate within the EU ETS...”

- As noted above, the ETS system does not replace or take legal primacy over the state's carbon budget programme. Indeed any such erroneous interpretation if accepted would have removed the need for, and the legal effect of, national climate policy.

Section 6.5 page 50

- Regarding the suggested emissions benefits of cloud computing/data centre storage in the three bullets, this assumes the Proposed Development is to be used solely to replace existing local IT storage. It is evident that the Proposed Development would be used at least in part, if not in the main, to provide additional storage for new customers.

Section 8 Pages 49-50

- Friends of the Earth recognises and does not contest that back-up generators are used for power losses in response to unplanned events and planned events.
- The critical point is that the CRU is currently consulting on precisely this issue as part of their Call for Evidence on Review of Large Energy Users Connection Policy. As noted, the CRU's forthcoming decision will have direct implications for data centre operations and compliance with the electricity sector's emissions ceiling.¹⁶
- In this consultation the CRU note that continuing to allow LEUs to connect to the electricity and gas networks in accordance with previously established arrangements may significantly impact Ireland's ability to meet the Sectoral Emissions Ceilings and climate targets.
- In the CRU's associated Call for Evidence paper as part of its Consultation on Energy Demand Strategy Project, the CRU outlines alignment with the electricity sector's SEC and the objective to ensure electricity and gas demand is consistent with the SEC. It also highlights the importance of compliance with the Climate Action and Low Carbon Development (Amendment) Act, 2021.¹⁷
- We urge the Board to review the CRU's consultations and forthcoming decision. We would oppose any granting of planning permission which pre-empts the CRU's decision and/or actively undermines a future CRU direction on the subject.

Section 8 Page 53

- The applicant rejects the Friends of the Earth objection that it had discounted relevant EU and UK guidance. The applicant omits the salient point that Friends of the Earth made this statement as the applicant itself had previously contended in its original application that there was an absence of guidance in relation to industrial facilities.
- This is one of several examples where the applicant's summary or description of

¹⁶ <https://www.cru.ie/publications/27533/>

¹⁷ <https://www.cru.ie/about-us/news/national-energy-demand-strategy-consultation-paper/>

original objections is partial or problematic. We request that ABP does not base its analysis of objections on the applicant's summary and instead reviews submissions from Friends of the Earth and other relevant parties.

- The limited information is not sufficient to ascertain that the proposed development will not result in significant adverse impacts on health and biodiversity in the area due to both construction, operation, traffic and use of diesel generators.

Section 9 Pages 56-58

- We strongly reject that arguments made are "without merit".
- While noting the agreement to supply 'renewable HVO', the applicant does not stipulate that no conventional diesel will be used in any circumstances. Emissions from potential conventional diesel use are not addressed.
- While referring to traceability and sustainability of the HVO, the applicant does not furnish evidence of AWS's 'purchase criteria'. There is therefore no guarantee or enduring obligation that renewable HVO will be exclusively used and that it will accord with relevant EU specifications.
- We would underline that the burning of diesel whether slightly lower emitting, sustainability sourced or not, constitutes a significant risk of emissions lock-in. A comparison merely with conventional diesel is insufficient. The onus should be to prevent use of onsite diesel generators in the first instance through demand reduction, onsite renewables (including solar PV) and onsite battery storage. The applicant has not made any additional commitments in this respect.
- Similarly statements the NOX emissions and particulates of HVO are slightly lower than conventional diesel does not substantiate the claim that they do not pose significant air quality risks, particularly for local communities. The responsibility must be to not use any such back-up in the first instance and to ensure obligations are introduced to provide for restrictions and limitations given the evident risks.
- Regarding the applicant's contract with Certa, we request that the Board takes into account concerns in relation to availability of Certa HVO. We note recent reports in April 2024 that the majority shareholder went into administration resulting in outcome that more than 12 million litres of biofuel it had already paid for is "missing or does not exist". We note assessments in 2023 that supplies were available but had not been made and subsequent legal proceedings. We ask that the applicant responds on how its contracted supplies have been affected. See reporting by the Irish Times and Irish Independent¹⁸.

We remain of the view that back up generation relying on renewable diesel has a high likelihood of adverse climate and environmental impacts for the reasons below. The best and first approach must be to reduce demand in the first instance and subsequently to prioritise proven solutions such as battery storage.

- These emissions (resulting from what is known as indirect land-use change, or ILUC)

¹⁸ <https://www.irishtimes.com/business/2024/04/29/certa-claims-12-million-litres-of-biofuel-it-purchased-went-missing-or-does-not-exist/> <https://www.independent.ie/business/irish/certa-lawsuit-claims-12-million-litres-of-biofuel-went-missing/a824509681.html>

associated with renewable diesel itself are extremely high when taking into account the whole life-cycle emissions.

- There are major concerns regarding traceability controls and certification at EU level.¹⁹ The EU has also adopted a delegated act which labels palm oil diesel as unsustainable, meaning that this biofuel will no longer be counted as a green fuel to meet the EU's 2030 renewable targets, although exemptions remain.²⁰
- As noted by UCC Professor Hannah Daly²¹, HVO is not a carbon-neutral solution and may fuel tropical deforestation.²² It is also underlined that waste is not a scalable energy source: A study by the Sustainable Energy Authority of Ireland found that waste sourced from Ireland can meet only 4 per cent of our total energy demand.²³
- Concerns have arisen as to whether part of the supply of its main feedstock marketed as used cooking oil (UCO) is in fact pure palm oil, one of the main drivers of deforestation.²⁴
- Biodiesel from palm oil is three times worse for the climate than regular diesel while soy oil diesel is two times worse, according to a European Commission study. Growing demand for biofuels like palm oil increases pressure on agricultural land which leads to deforestation.²⁵

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 of the above sections and would be happy to provide further information upon request.

Is mise le mórmheas

Jerry Mac Evilly,
Head of Policy
Friends of the Earth

¹⁹ <https://www.euractiv.com/section/agriculture-food/news/biofuel-certification-schemes-slammed-for-failing-to-halt-fraud/>

<https://www.euractiv.com/section/biofuels/news/eu-incapable-of-detecting-fraud-in-biofuel-imports-complainant-says/>

²⁰

<https://www.transportenvironment.org/challenges/energy/biofuels/>

²¹ <https://www.irishtimes.com/environment/climate-crisis/2023/06/01/the-trouble-with-renewable-diesel/>

²² <https://www.nnfcc.co.uk/publications/report-imported-used-cooking-oil/>

<https://www.euronews.com/green/2021/04/21/europe-s-reliance-on-used-cooking-oil-is-fuelling-deforestation-says-new-study>

<https://www.bbc.com/news/science-environment-56819257>

²³ <https://www.seai.ie/data-and-insights/national-heat-study/sustainable-bioenergy-for/>

²⁴ <https://ourworldindata.org/what-are-drivers-deforestation>

²⁵ <https://www.transportenvironment.org/discover/palm-oil-not-green-fuel-says-eu/>