Appendix 1. Introduction & Methodology

1.2. MHC Letter (MHC, 2026)

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Matter: Cashla Peaker Plant Development (the "Proposed Project")

1 Introduction

1.1 This letter is provided to supplement and support the planning application for the Proposed Project.

1.2 This letter considers the legal framework and national policy supporting the Proposed Project, in particular the national target of '*at least 2 GW*' new flexible gas plant by 2030 as provided for in Chapter 11 of the Climate Action Plan 2025.[1]

2 The Climate Act

2.1 The Climate Action and Low Carbon Development Act 2015 was amended by the Climate Action and Low Carbon Development (Amendment) Act 2021 (together the "**Climate Act**")

2.2 Section 15 of the Climate Act states that:

> *"15. (1) A relevant body shall, in so far as practicable, perform its functions in a manner consistent with—*
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> *(a) the most recent approved climate action plan,*
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> *(b) the most recent approved national long term climate action strategy,*
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> *(c) the most recent approved national adaptation framework and approved sectoral adaptation plans,*
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> *(d) the furtherance of the national climate objective, and*

[1] https://www.gov.ie/en/department-of-climate-energy-and-the-environment/publications/climate-action-plan-2025/

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(e) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State".

2.3 Section 15 of the Climate Act provides that the Government and State's climate objectives shall be considered "*in so far as practicable*".

3 Climate Action Plan ("**CAP25**")

3.1 CAP25 sets a target of delivering '*at least 2 GW'* of new flexible gas plant by 2030.

3.2 It is recognised that based on current consents granted at the time of the planning application for the Proposed Project, Ireland appears to be on target to reach the 2GW minimum of new flexible gas generation projects. However, it must also be recognised that the majority of consents granted have yet to be constructed. In reality, there is no guarantee that these projects will be built in a timely manner or indeed if all permissions granted to date will be implemented.

3.3 Several key factors can influence if a permitted development is constructed including financing, grid connection allocation of a capacity contract, planning delays such as judicial reviews, contractor, skills and materials availability, and costs. These are factors that are outside of the control of a developer and are entirely separate to the grant of planning.

3.4 Given the broad scope of factors that can influence the progression of permitted development, there must be a recognised attrition rate for same. As set out in section section 34(13) of the Planning and Development Act 2000 (as amended):

"*A person shall not be entitled solely by reason of a permission under this section to carry out any development."*

3.5 Section 2.1 of CAP25, sets out '*Trends in Ireland's Emissions to Date'*:

"The sectoral makeup of our emissions has changed considerably since 1990. Emissions in the transport sector increased by 129.2% to 2023 driven by a high reliance on private car travel as well as rapidly increasing road freight transport. On the other hand, emissions from electricity generation fell by 32.1% during a timeframe where electricity consumption grew by 164%. This was driven by more efficient gas-fired power plants replacing older peat and oil-fired plants, an increased share of renewables, and increased interconnectivity"

(emphasis added)

3.6 In addition, CAP25 explicitly references the policy document '*Energy Security in Ireland to 2030*', as follows:

"In November 2023, Energy Security in Ireland to 2030, was published. This sets out the strategic approach to ensure a secure transition for Ireland's energy systems, in line with our climate objectives, and sets out the energy security related actions to be taken out to 2030".

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3.7 The policy document "*Energy Security in Ireland to 2030*"[2] supports the use of gas as part of the energy transition, including the addition of new gas-fired generation such as the Proposed Project, as flexible back-up on the electricity system.

3.8 It is clear from the above that CAP25 clearly supports the Proposed Project. As further set out in Chapter 8 – Climate (sections 8.4 and 8.6) of Volume 2 of the EIAR the Proposed Project is designed to work in partnership with and support renewable energy generating projects to ensure energy security during the transition to a net zero economy.

3.9 In addition, it is important to note that the Proposed Project has been allocated a capacity contract in the 2028 / 2029 T-4 Capacity Auction. The importance of this is twofold. Firstly, this is an important requirement outside of planning to facilitate development, as set out at section 3.3 above.

3.10 Secondly, it is notable that the capacity auctions, run by EirGrid and SONI in their roles as Transmission System Operators in Ireland and Northern Ireland respectively, through the joint venture SEMO (Single Electricity Market Operator) were designed by the electricity regulators in Ireland and Northern Ireland to ensure sufficient capacity is secured to meet demand across the island.

3.11 The 2028 / 2029 T-4 Capacity Auction, as set out in the Capacity Auction Results Report dated 16 January 2025[3], awarded the Proposed Project its capacity contract. Auction requirement quantities identified in this auction incorporated all successful existing MW of gas turbine technology into the assessment identifying the requirement for new capacity, in order to maintain security of supply on the system. It should be noted that auction required quantities were adjusted by the Regulatory Authorities to account for various considerations such as reserves and non-participating capacity.

4 National Policy

4.1 As set out in section 10.1.7 of CAP 25:

> *"The planning system plays an integral role in meeting the National Climate Objective and having a vertically integrated policy framework that supports the actions in this Climate Action Plan is critical. From a national planning policy perspective, the National Planning Framework (NPF) provides an established means through which to implement and integrate climate change objectives, including adaptation, at national, regional, and local levels, and the transition to a low carbon and climate resilient society.*
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> *The NPF sits at the top of the planning hierarchy and provides the overarching context for the regional and local tiers below it, thereby securing the alignment of policies and*

[2] https://www.gov.ie/en/department-of-climate-energy-and-the-environment/publications/energy-security-in-ireland-to-2030/

[3] https://www.sem-o.com/sites/semo/files/documents/general-publications/20282029-T-4-Final-Capacity-Auction-Results-Report-FCAR2829T-4.pdf

objectives as part of the plan-making process, including alignment with the Climate Action Plan."

4.2 The Revised NPF also highlights the need for a diversified energy portfolio from multiple sources including gas, to underpin the growth of renewable electricity and safeguard energy security.[4] The Proposed Project directly contributes to these objectives by enabling the transition to a low-carbon energy system.

4.3 Finally, it should be noted that the Proposed Project falls squarely within Government policy, enabling and supporting the decarbonisation of energy systems, as set out in the Policy Statement on Security of Electricity Supply (November 2021)[5] and the CRU Information Paper: Security of Electricity Supply Programme of Actions (September 2021). The Proposed Project comprises Gas Powered Turbine Peaking Plant that will provide back-up electricity to the national grid.

4.4 The Proposed Project is further supported by national and European policy as set out in Chapter 8 – Climate (sections 8.3.1.2.1 - 8.3.1.2.2) of Volume 2 of the EIAR submitted with the planning application for the Proposed Project.

5 Coolglass Wind Farm Limited v An Bord Pleanála [2026] IESC 5

5.1 For completeness, we refer to the decision of the Supreme Court in *Coolglass Wind Farm Limited v An Bord Pleanála* [2026] IESC 5 dated 4 February 2026 in relation to the obligations on a relevant body under section 15 of the Climate Act, as set out at section 2 above.

5.2 In the High Court's judgment in *Coolglass* [2025] IEHC 1, Humphreys J acknowledged that *"the concept of net zero implies a continuing necessity for some emissions in the short term at least"* and that *"there will be other imperatives of economic necessity that require projects that, in and of themselves, wouldn't support climate goals in isolation"*.

5.3 In this respect, we refer to the following extracts from that judgment: -

> *"119. The logical implication of that is that s15 applies to the board as it applies to other relevant bodies and as other provisions of the legislation apply to central and local government. It imposes an obligation to act consistently with the climate plans and objectives referred to in s15 insofar as practicable. That does not mean allowing an application which is prohibited by law. That wouldn't be practicable apart from anything else. But it does mean exercising discretionary and evaluative powers in whatever way is most likely to be consistent with the relevant plans and objectives.*
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> ***132. I do need to emphasise that the obligation to use discretionary powers favourably to renewable energy infrastructure does not automatically translate into an obligation to refuse permission for developments that cause emissions**.*

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[4] Page 133, revised NPF April 2025 https://www.npf.ie/first-revision-to-the-national-planning-framework/national-planning-framework-first-revision-april-2025/

[5] https://www.gov.ie/en/department-of-climate-energy-and-the-environment/publications/policy-statement-on-security-of-electricity-supply/

> *One can see an argument as to why the board would not be required to start from a position of scepticism in relation to projects causing emissions to quite the same extent as it should start from a presumption of favourability regarding renewable projects. We can save detailed consideration for a case in which it arises but there are two obvious reasons for this:*
>
> *(i)* ***The concept of net zero implies a continuing necessity for some emissions in the short term at least. That relates to the fact that pending complete adaptation of the economy, there will be other imperatives of economic necessity that require projects that, in and of themselves, wouldn't support climate goals in isolation****. Energy security to enable the ongoing orderly functioning of society, especially in the context of the Russian Federation's full-scale criminal war of aggression against Ukraine, is one example.*
>
> *(ii) Even if a project is not in itself driven by such an imperative, one has to be conscious of displacement effects. Refusal of a project in Europe may simply have the effect of the project being relocated to a jurisdiction with lower environmental standards, thus producing more emissions overall. Emissions are definitionally a cumulative global problem, so while refusing such projects feels good in the moment, it may or may not be doing anything to combat climate change. Rightly or wrongly, that was an explicit part of my thinking in An Taisce v. An Bord Pleanála [2021] IEHC 254, [2021] 7 JIC 0205 (Unreported, High Court, 2nd July 2021). Such an approach doesn't particularly give one a feeling of virtue, but it makes a certain amount of sense depending on the context.*
>
> ***133. In other words, it doesn't automatically follow from a pro-renewables interpretation that there must be, say, an anti-cheese factory interpretation, an anti-data centre interpretation or an anti-LNG storage interpretation. The trade-offs and displacement effects would need to be considered".***
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> (emphasis added)

5.4 The Supreme Court upheld the High Court's decision in *Coolglass*, although it did not fully agree with the High Court's reasoning. That said, the Supreme Court did agree with the High Court in finding that the concept of net zero does allow for emissions generating projects. At paragraph 86 of the Supreme Court's judgment it states:

> *"****The second reason the judgment gives is more important. It acknowledges that the concept of net zero contemplates a balance between projects, and can encompass some which may be emission generating, but are of particular economic, social, and community advantage, and other projects****. Because the national climate objectives are stated as a total global figure, the refusal of permission for a particular project which is said to be climate friendly, and* ***the grant of permission for one which may create greenhouse gases, may still be consistent with the overall achievement of climate targets****. A target is a net one to be assessed globally. But if that is so, and it is, the qualified consistency obligation imposed by s. 15(1) cannot be the sole or even principal determinant of the refusal or grant, or grant subject to conditions (subject to practicability) of planning permission. Considerations of proper planning and sustainable development are necessarily*

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taken into account in any decision, and ***the High Court judgment correctly recognises that emission creating developments may be properly permitted****."*

(emphasis added)

5.5 These statements from the *Coolglass* judgments align with the current abundance of national policy supporting the Proposed Development, as set out in the application documentation and at sections 3 and 4 above.

5.6 The Supreme Court's judgment confirms that there may be projects which result in emissions, but which should not necessarily be refused on the basis of emissions. The obligation is on the decision maker to ensure its decision is consistent with the policies and objectives listed in s15 of the Climate Act in so far as practicable. The Supreme Court confirmed at paragraph 118(ii) of its judgment that this obligation to ensure consistency in so far as practicable involves more than an obligation to "have regard to" the climate objectives referred to in section 15.

5.7 Peaking plants are only required to provide power for limited durations when wind or solar energy cannot meet demand, such as the Proposed Project, they support the development and integration of renewable generation infrastructure and are therefore consistent with the Climate Action Plan and necessary for the security of Ireland's energy supply. The transition to renewable energy would not be possible without such back-up infrastructure.

5.8 It should also be noted that in the more recent High Court case of *Friends of Kilmoney v An Bord Pleanala* [2025] IEHC 407, Humphreys J made observations about projects that cause emissions and how decision makers should deal with the same. In this respect, we refer to the following extracts from the judgment:

"172. Some potential considerations are as follows:

(i) All consent functions have to be exercised as far as practicable in a manner consistent with climate goals – as required by s15 of the 2015 Act as amended by the 2021 Act.

(ii) Compatible essentially means contributing to the goals set out. Thus a project has to be either climate-neutral (not causing emissions, or any emissions being balanced by off-sets), ***or else provided for in the relevant climate action plan (either as a specific project or as part of a category of projects which are sufficiently identifiable by size and number such that the commission can determine whether any individual grant of permission would be compatible with the plan)****. The commission is not a catch-all national policy-making body – Government has to be specific enough to allow the commission to make individual decisions. In the absence of specificity the commission may not be able to come lawfully to a conclusion of consistency.*

(iii) The commission's conclusion that the project is compatible with such goals can be challenged if irrational or unreasoned, or if based on flawed reasons.

(iv) Only the additional GHG emissions of the project are crucial, bearing in mind that the scenario of no consent is not normally one of no emissions but of an alternative

(sometimes higher) level of emissions. Displacement effects such as relocation of projects may be relevant in some cases but in other cases relocation may not lead to higher emissions given the continually intensifying global focus on renewable energy and the many areas of the world where renewables are more readily accessible than here (solar energy in the tropics, geothermal power in Iceland, and so on).

(v) Consistent with the 2015 Act, ***the commission may determine that it is not practicable to ensure compliance with climate goals. This may arise by virtue of imperative requirements of social order such as energy security or other essential infrastructure, or even where energy projects based on fossil fuels are required to stabilise the grid during periods when the winds are not blowing, to put it colloquially****…"*

(emphasis added)

6 Conclusion

6.1 The Proposed Project is assisting to advance Ireland's energy transition goals in conformity with both the current Climate Action Plan and the obligations under the Climate Act.

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