Submission Case Reference: PAX03.324156

Cahermurphy Renewables DAC (Applicant)

Proposed wind farm development

10 year planning permission for a 110kV grid connection to the national grid at the existing 110kV Moneypoint Substation

Submission of

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1. Policy

1.1.Directive RED III DIRECTIVE (EU) 2023/2413

The applicant declares the application to be a RED III application and seeks to benefit from the significant benefits associated with that iteration of the Directive. However the Directive is not *a la carte* and the applicant must be prepared to be subject to it in its entirety. The applicant does not mention Article 15(b) of the Directive which required the Regional Spatial and Economic Strategy (RSES) and thereafter County Development Plans (CDP) to have new mapping compiled by the 25th May 2025 in order to inform decision makers in matters of the appropriate location for renewable energy projects. For example the applicant did not include paragraph 25 of the Directive preamble.

> *(25) Member States should support the faster deployment of renewable energy projects by carrying out* ***a coordinated mapping for the deployment of renewable energy and related infrastructure in their territory in coordination with local and regional authorities.*** *Member States* ***should identify the land,*** *surface, sub-surface and sea or inland water areas* ***necessary for the installation of renewable energy plants and related infrastructure in order to meet at least their national contributions towards the revised overall renewable energy target for 2030*** *set in Article 3(1) of Directive (EU) 2018/2001 and in support of reaching the objective of climate neutrality by 2050 at the latest, in accordance with Regulation (EU) 2021/1119. Member States should be allowed to use existing spatial planning documents for the purpose of identifying those areas. Member States should ensure that such areas reflect their estimated trajectories and total planned installed capacity and should identify specific areas for the different types of renewable energy technology provided for in their integrated national energy and climate plans submitted pursuant to Articles 3 and 14 of Regulation (EU) 2018/1999.* ***The identification of the required land****, surface, sub-surface, and sea or inland water areas* ***should take into consideration in particular the availability of energy from renewable sources and the potential offered by the different land*** *and sea areas for renewable energy production of the different types of technology, the projected demand for energy,* ***taking into account energy and system efficiency****, overall and in the different regions of the Member State, and the availability of relevant energy infrastructure, storage, and other flexibility tools bearing in mind the capacity needed to cater for the increasing amount of renewable energy,* ***as well as environmental sensitivity in accordance with Annex III to Directive 2011/92/EU of the European Parliament and of the Council.***

From RED III “plantation forest” means a plantation forest as defined in Article 2, point (11), of Regulation (EU) 2023/1115 of the European Parliament and of the Council (*);

“system efficiency” means the selection of energy-efficient solutions where they also enable a cost-effective decarbonisation pathway, additional flexibility and the efficient use of resources;

“co-located energy storage” means an energy storage facility combined with a facility producing renewable energy and connected to the same grid access point;

(5)Article 15 is amended as follows:

(a)in paragraph 1, the first subparagraph is replaced by the following:

‘1.Member States shall ensure that any national rules concerning the authorisation, certification and licensing procedures that are applied to plants and associated transmission and distribution networks for the production of electricity, heating or cooling from renewable sources, to the process of transformation of biomass into biofuels, bioliquids, biomass fuels or other energy products, and to renewable fuels of non-biological origin are proportionate and necessary and contribute to the implementation of the energy efficiency first principle.’;

Article 15b

1.By 21 May 2025, Member States **shall** carry out a **coordinated mapping** for the deployment of renewable energy in their territory **to identify the domestic potential and the available land surface**, sub-surface, sea or inland water areas **that are necessary for the installation of renewable energy plants and their related infrastructure**, such as grid and storage facilities, including thermal storage, that are required in order to meet at least their national contributions towards the overall Union renewable energy target for 2030 set in Article 3(1) of this Directive. **To that end**, Member States **may use or build upon their existing spatial planning documents or plans**, including maritime spatial plans set up pursuant to Directive 2014/89/EU of the European Parliament and of the Council (1)*. Member States **shall ensure coordination among all the relevant national, regional and local authorities and entities, including network operators**, **in the mapping of the necessary areas, where appropriate.**

Member States shall ensure that such areas, including the existing renewable energy plants and cooperation mechanisms, are commensurate with the estimated trajectories and total planned installed capacity by renewable energy technology set out in their national energy and climate plans submitted pursuant to Articles 3 and 14 of Regulation (EU) 2018/1999.

2. For the purpose of identifying the areas referred to in paragraph 1, Member States **shall take into account in particular**:

(a) the availability of energy from renewable sources and the potential for renewable energy production of the different types of technology in the land surface, sub-surface, sea or inland water areas;

(b) the projected demand for energy, taking into account the potential flexibility of the active demand response, expected efficiency gains and energy system integration;

(c) the availability of relevant energy infrastructure, including grids, storage and other flexibility tools or the potential to create or upgrade such grid infrastructure and storage.

3. Member States **shall favour multiple uses of the areas referred to in paragraph 1.** Renewable energy projects **shall be compatible with pre-existing uses of those areas**.

4. Member States shall periodically review and, where necessary, update the areas referred to in paragraph 1 of this Article, in particular in the context of the updates of their national energy and climate plans submitted pursuant to Articles 3 and 14 of Regulation (EU) 2018/1999.

Article 15c

Renewables acceleration areas

1.By 21 February 2026, Member States shall ensure that competent authorities adopt one or more plans designating, as a sub-set of the areas referred to in Article 15b(1), renewables acceleration areas for one or more types of renewable energy sources. Member States may exclude biomass combustion and hydropower plants. In those plans, competent authorities shall:

(a)designate sufficiently homogeneous land, inland water, and sea areas where the deployment of a specific type or specific types of renewable energy sources is not expected to have a significant environmental impact, in view of the particularities of the selected area, while:

> (i)giving priority to artificial and built surfaces, such as rooftops and facades of buildings, transport infrastructure and their direct surroundings, parking areas, farms, waste sites, industrial sites, mines, artificial inland water bodies, lakes or reservoirs and, where appropriate, urban waste water treatment sites, as well as degraded land not usable for agriculture;

(ii)excluding Natura 2000 sites and areas designated under national protection schemes for nature and biodiversity conservation, major bird and marine mammal migratory routes as well as other areas identified on the basis of sensitivity maps and the tools referred to in the point (iii), except for artificial and built surfaces located in those areas such as rooftops, parking areas or transport infrastructure;

(iii)using all appropriate and proportionate tools and datasets to identify the areas where the renewable energy plants would not have a significant environmental impact, including wildlife sensitivity mapping, while taking into account the data available in the context of the development of a coherent Natura 2000 network, both as regards habitat types and species under Council Directive 92/43/EEC (2)*, as well as birds and sites protected under Directive 2009/147/EC of the European Parliament and of the Council (3)*;

(b)establish appropriate rules for the renewables acceleration areas on effective mitigation measures to be adopted for the installation of renewable energy plants and co-located energy storage, as well as assets necessary for the connection of such plants and storage to the grid, in order to avoid the adverse environmental impact that may arise or, where that is not possible, to significantly reduce it, where appropriate ensuring that appropriate mitigation measures are applied in a proportionate and timely manner to ensure compliance with the obligations laid down in Article 6(2) and Article 12(1) of Directive 92/43/EEC, Article 5 of Directive 2009/147/EEC and Article 4(1), point (a)(i), of Directive 2000/60/EC of the European Parliament and of the Council (4)* and to avoid deterioration and achieve good ecological status or good ecological potential in accordance with Article 4(1), point (a), of Directive 2000/60/EC.

The rules referred to in point (b) of the first subparagraph shall be targeted to the specificities of each identified renewables acceleration area, to the type or types of renewable energy technology to be deployed in each area and to the identified environmental impact.

Compliance with the rules referred to in the first subparagraph, point (b), of this paragraph and the implementation of the appropriate mitigation measures by the individual projects shall result in the presumption that projects are not in breach of those provisions without prejudice to Article 16a(4) and (5) of this Directive. Where novel mitigation measures to prevent, to the extent possible, the killing or disturbance of species protected under Directives 92/43/EEC and 2009/147/EC, or any other environmental impact, have not been widely tested as regards their effectiveness, Member States may allow their use for one or several pilot projects for a limited

time period, provided that the effectiveness of such mitigation measures is closely monitored and appropriate steps are taken immediately if they prove not to be effective.

Competent authorities shall explain in the plans designating renewables acceleration areas referred to in the first subparagraph the assessment made to identify each designated renewables acceleration area on the basis of the criteria set out in point (a) of the first subparagraph and to identify appropriate mitigation measures.

2.Before their adoption, the plans designating renewables acceleration areas shall be subject to an environmental assessment pursuant to Directive 2001/42/EC of the European Parliament and of the Council (5)*, and, if they are likely to have a significant impact on Natura 2000 sites, to the appropriate assessment pursuant to Article 6(3) of Directive 92/43/EEC.

3.Member States shall decide the size of renewables acceleration areas, in view of the specificities and requirements of the type or types of technology for which they set up renewables acceleration areas. While retaining the discretion to decide on the size of those areas, Member States shall aim to ensure that the combined size of those areas is significant and that they contribute to the achievement of the objectives set out in this Directive. The plans designating renewables acceleration areas referred to in paragraph 1, first subparagraph, of this Article shall be made publicly available and shall be reviewed periodically, as appropriate, in particular in the context of the updating of the integrated national energy and climate plans submitted pursuant to Articles 3 and 14 of Regulation (EU) 2018/1999.

4.By 21 May 2024, Member States may declare as renewables acceleration areas specific areas which have already been designated to be areas suitable for an accelerated deployment of one or more types of renewable energy technology, provided that all of the following conditions are met:

(a)such areas are outside Natura 2000 sites, areas designated under national protection schemes for nature and biodiversity conservation and identified bird migratory routes;

(b)the plans identifying such areas have been the subject of a strategic environmental assessment pursuant to Directive 2001/42/EC and, where appropriate, of an assessment pursuant to Article 6(3) of Directive 92/43/EEC;

(c)the projects located in such areas implement appropriate and proportionate rules and measures to address the adverse environmental impact that may arise.

5.The competent authorities shall apply the permit-granting procedure and deadlines referred to in Article 16a to individual projects in renewables acceleration areas.

Article 15d

Public participation

1.Member States shall ensure public participation regarding the plans designating renewables acceleration areas referred to in Article 15c(1), first subparagraph, in accordance with Article 6 of Directive 2001/42/EC, including identifying the public affected or likely to be affected.

2. Member States shall promote public acceptance of renewable energy projects by means of direct and indirect participation of local communities in those projects.

As yet there is no mapping which takes account, or proper account, of the availability of energy from renewable sources and the potential offered by the different land. There is no assessment of the validity of the claimed potential for renewable generation on this site. Furthermore there is no assessment of the environmental sensitivity of this location with regard to Annex III to Directive 2011/92/EU of the European Parliament and of the Council. That assessment is supposed to be determined before land is designated for renewable energy development.

> *'(9a)"renewables acceleration area" means a specific location or area, whether on land, sea or inland waters, which a Member State designated as particularly suitable for the installation of renewable energy plants;*

It is not stated unambiguously as to whether this application site is in a designated acceleration area or outside a designated acceleration area. This needs to be clarified in order to make properly informed submissions. This has implications for the EIA/AA process particularly if there is any intention, stated or otherwise, to co-locate other renewable projects with the subject proposal at any time in the future. Article 16b(2).

In relation to Article 16f, and in view of the lack of the required mapping procedure, there has been no consideration by the State as to whether this location should be excluded for wind generation on the basis of likely impacts on protected birds, water quality, flora & fauna, potable water sources and connected Natura 2000 sites. There was no assessment as to whether restrictions should apply to certain parts of their territory, to certain types of technology or to projects with certain technical characteristics in accordance with the priorities set out in their integrated national energy and climate plans submitted pursuant to Articles 3 and 14 of Regulation (EU) 2018/1999. Therefore to establish any overriding public interest an assessment of this land should have been carried out in by the 21st February 2024 or in any event prior to consideration of this application. It does not appear that this issue was addressed in the pre-application stage. The basis for this location being open to consideration for this application is dated and potentially flawed when the location is mapped with respect to the parameters set out in RED III.

The State had a duty to assess inter alia this location to determine if in duly justified and specific circumstances, to restrict the application of this Article at this location. This location needed to be assessed in respect of the overriding public interest and serving public health and safety when balancing legal interests for the purposes of Article 6(4) and Article 16(1), point (c), of Directive 92/43/EEC, Article 4(7) of Directive 2000/60/EC and Article 9(1), point (a), of Directive 2009/147/EC. Member States may,

1.2.Climate Action and Low Carbon Development (Amendment) Act 2021

"(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."

1.3.EU (Planning and Development) (Renewable Energy) Regulations 2025

S.I. No. 274 of 2025 Does not address the issue of mapping in Article 15b or the requirement to identify locations for accelerated development.

1.4.Climate Action Plan 2025

11.2 Actions and Updates

11.2.1 Progress on actions

Extending the life of and/or repowering existing renewable electricity projects offers an efficient use of established infrastructure and minimises the risk to the security of electricity supply at a time when increasing numbers of existing windfarms are reaching the end of their life. For onshore wind capacity, lifetime extensions and repowering at existing sites will be critical to ensuring that the 80% renewable electricity target is reached.

Accelerate Renewable Energy Generation

The Planning and Development Act, 2024, the Renewable Energy Directive and the revised NPF together will ensure greater alignment between national, regional, and local authority levels to deliver on the renewable electricity ambition.

The draft first revision of the NPF includes policy support for the development and upgrading of electricity grid infrastructure, the delivery of renewable electricity generation capacity, and the introduction of regional renewable electricity capacity allocations for each of the three Regional Assemblies by 2030. The table below shows each region's existing energised capacity and additional minimum renewable electricity capacity allocations. The target capacity allocations are the minimum required for wind and solar generation to meet the 2030 emissions reductions in the electricity sector and further capacity may be required beyond 2030 to reach net zero by 2050.

In accordance with the relevant National Policy Objectives, Regional Assemblies and Local Authorities must plan for sufficient wind and solar energy development in order to achieve the targeted regional renewable electricity capacity allocations outlined in the draft National Planning Framework, taking into account factors influencing delivery including attrition rates and changes to energised capacity levels, in addition to current installed energised capacity.

Further to the commencement of Section 29 of the Planning and Development Act 2024, each Regional Assembly will be required to prepare a Regional Renewable Energy Strategy (RRES) as part of a wider review of the Regional Spatial and Economic Strategy, whereby additional detail can be outlined as to how the regional renewable electricity capacity allocations for the region can be best achieved in a coordinated and sustainable manner, including the identification of specific minimum targets for each of the constituent local authorities. These strategies will, in turn, inform City and County Development Plans.

The Final Revised NPF, due to be approved by Government and the Oireachtas in 2025, will be essential to ensuring that there is a sufficient pipeline of onshore wind and solar energy projects to meet the electricity carbon budget programme.

The NPF was updated and delegated the Article 15b mapping to the RSES but this has not been carried out.

1.5.Climate Action Plan 2025

Annex of Actions

EL/25/9 Accelerate Renewable Electricity Taskforce to oversee delivery of actions contained in Implementation Plan.

LU/25/1 Delivery of Phase 2 of the Land Use Review by end of Q1 2025 and update on progress towards Phase 1 recommendations Publish report of Phase 2 of the Land Use Review Q2 2025 DECC

EL/24/4 Publish Regional Renewable Electricity Strategie Q4 2024 Regional Assemblies DECC, DHLGH, SEAI

EL/24/5 Develop revised Wind Energy Development Guidelines for onshore wind Q1 2025 DHLGH

EL/24/6 Publish revised methodology for Local Authority Renewable Energy StrategiesMethodology published Q2 2024 SEAI

EL/23/3 Publish a roadmap for the development and implementation of Regional Renewable Electricity Strategies

17.2 Progress on Actions

Development Framework for Offshore Energy

` The South Coast DMAP for Offshore Renewable Energy has been published [and laid before the Oireachtas]. The DMAP identifies four areas off the south coast that are considered suitable locations for future offshore renewable energy;

` Following the ecological sensitivity analysis of the western Irish Sea supported by DHLGH and completed in June 2023, a further ecological sensitivity analysis of the Celtic Sea was undertaken in 2024 to examine suitable areas for potential protection off the south of Ireland, and to help inform processes around the potential siting of ORE infrastructure.

18.1 Local Authority Renewable Energy Strategy Guidelines

The SEAI has been leading the development of updated Local Authority Renewable Energy Strategy (LARES) guidelines which will inform the revision of City/County Development Plans which will be undertaken following the finalisation of the revised NPF and revised Regional Spatial Economic Strategies. This will include the spatial allocation of local authority level renewable energy targets in City/County Development Plans, with the requirement fora four-tier spatial classification to guide local authorities in preparing spatial mapping and to identify areas appropriate for wind energy projects, to be incorporated within the revised Wind Energy Development Guidelines.

18.1.2 National Climate Policy and Legislation

Regional Renewable Electricity Generation

Local authorities have a key role in facilitating the accelerated deployment of renewable energy projects in the context of the spatial planning hierarchy, local plan making and their decision-making role in planning applications. New policies in relation to renewable energy development are one key aspect of the proposals in the revised NPF. Increased deployment of onshore renewable electricity generation is key to achieving the requirements of the recast EU Renewable Energy Directive and the national climate objective. It will provide a clean, affordable, and secure supply of electricity, whilst also delivering green jobs.

The draft NPF includes regional onshore renewable electricity targets for commercial scale wind and solar which are allocated across the three Regional Assemblies. These will be distributed across local authorities by way of Regional Renewable Energy Strategies to be included in revised Regional Spatial and Economic Strategies. This will ensure greater alignment between regional and local plans and national renewable energy targets. Under the Planning and Development Act 2024, each of the Regional Spatial and Economic Strategies must also include a strategy relating to climate change adaptation and mitigation that is consistent with national policies, and a strategy relating to marine and coastal matters which facilitates the coordination of land-sea interactions for coastal planning authorities.

Local Authority Renewable Energy Strategy Guidelines

The SEAI has been leading the development of updated Local Authority Renewable Energy Strategy (LARES) guidelines which will inform the revision of City/County Development Plans which will be undertaken following the finalisation of the revised NPF and revised Regional Spatial Economic Strategies. This will include the spatial allocation of local authority level renewable energy targets in City/County Development Plans, with the requirement for a four-tier spatial classification to guide local authorities in preparing spatial mapping and to identify areas appropriate for wind energy projects, to be incorporated within the revised Wind Energy Development Guidelines.

18.2.1 Delivering Climate Action Locally

Local authorities have successfully delivered several projects that contribute to the

national climate objective, and which improve quality of life. A highly significant milestone for 2024 is the Local Authority Climate Action Plans (LA CAP). All 31 local authorities adopted their LA CAP by Q1 2024, having gone out to public consultation and following adoption by the elected members in each local authority. The plans

encompass all aspects of local authority operations and service delivery and contain almost 4,000 actions.

21 Sustainable Development Goals

21.1 Background

The actions and objectives set out in this Climate Action Plan (CAP25) contribute to the progression of Ireland's commitment to achieving the 2030 Agenda for Sustainable Development and the 17 Sustainable Development Goals. Agreed by all UN Member States in September 2015, the 2030 Agenda is the global roadmap to 'end poverty, protect the planet and ensure prosperity for all'. Actions to achieve the SDGs are embedded in national polices, strategies and frameworks, including CAP25. The Climate Action Plan not only supports the achievement in particular of SDG 13 – Climate Action, but also of many targets relating to all other SDGs.

21.2 The Contribution of the Climate Action Plan to the Sustainable Development Goals In support of SDG target 17.14–To achieve greater Policy Coherence for Sustainable Development, each policy chapter in CAP25 has been assessed for SDG impact at SDG target level46. This specific SDG chapter evaluates the overall contribution of CAP25 to SDG progression.

[46] Each policy chapter of the CAP25 was assessed for its alignment with the SDGs, using the Accelerating Action SDG Mapping tool, resulting in a composite assessment of the CAP overall.

Accelerating Renewable Electricity Taskforce Implementation Plan;

1.6.Ireland's Long-term Strategy on Greenhouse Gas Emissions Reduction 2024

Pathway to 2030 National Energy and Climate Plan

In accordance with the Governance of the Energy Union and Climate Action Regulation, Ireland submitted its draft National Energy and Climate Plan (NECP) 2021-2030 to the European Commission in 2023.

1.7. National Adaptation Framework Planning for a Climate Resilient Ireland 2024

2.3 Guiding Principles for Adaptation and Resilience

The key guiding principles, grouped into high-level themes include:

• Local Knowledge and Community Engagement: Incorporate local knowledge, involve affected communities in decision-making, and empower them to contribute to adaptation solutions.

Improving the Evidence Base and Capacity for Adaptation

• Openness and Knowledge Transfer: Sharing best practises in adaptation, improving data collection of adaptation relevant information as well as the clear communication of this information are all essential for adaptation processes.

• Science-Based Decision-Making: Base adaptation strategies on the best available scientific knowledge, national guidance and data to effectively address current and future climate risks.

• Account for Uncertainty: Uncertainties are an inherent part of all projections of climate change and its impacts. They will never be fully eliminated but adaptation measures will be required, nonetheless. A precautionary approach to adaptation should be adopted.
• Climate Scenarios: When prioritising climate change impacts at regional and local levels, both past weather events and scenarios of possible future climatic and socioeconomic changes should be analysed.

Adaptation Design and Planning

• Avoiding Maladaptation: Ensure that adaptation actions do not inadvertently create new vulnerabilities or exacerbate existing ones.

• Just Resilience: Prioritise vulnerable and marginalised communities, ensuring that adaptation efforts are inclusive, and support fair and equitable outcomes.

• Sustainability: Ensure that adaptation measures promote long-term sustainability, minimising negative environmental and social impacts.

• Ecosystem-based / nature-based options for adaptation: Employ ecosystem based or nature based adaptation options, to reflect the biodiversity-rich ambition of the national climate objective.

• Consideration of Climate Mitigation: Ensure that climate mitigation outcomes are considered alongside adaptation planning where appropriate.

• Transformational Adaptation: Acknowledge that adaptation measures may need to entail transformative action that focuses on system-level change to address the root causes of risk.

• Integrated Approach: Adopt a holistic, cooperative, and cross-sectoral approach that considers the interconnectedness of climate change impacts and adaptation measures.

Adaptation Management and Monitoring

• Prioritise Adaptation Actions: It will not be practical to undertake all adaptation options identified. Implementation of adaptation actions must be prioritised according to relevant criteria such as efficacy, cost-effectiveness, risk, and urgency and ensuring just resilience.

• Flexible and Adaptive Management: Be prepared to adjust adaptation strategies as new information emerges and as climate conditions change over time.

• Monitoring Progress: It will be necessary to establish appropriate monitoring mechanisms and indicators to ensure the effectiveness of sector specific adaptation responses. Such mechanisms will also ensure efficient use of resources while allowing flexibility in how plans are implemented and considering the impacts of responses from a just resilience perspective.

These principles provide a solid foundation for designing and implementing climate change adaptation strategies that enhance resilience, reduce risks, and promote sustainable, equitable outcomes in the face of a changing climate.

2.4 Mainstreaming climate adaptation into national and local policy and decision-making processes

Avoiding working in isolation to tackle climate change is key to responding effectively and comprehensively to this global issue. When sectors, organisations, or governments operate independently, focusing only on their areas without recognising how climate impacts are connected, it limits our ability to address the problem fully and the adaptation options available to us. It can lead to unintended consequences that increase climate risk and maladaptation. To overcome this, it's vital to encourage collaboration and the sharing of information across different areas. This means breaking down old barriers and encouraging teamwork that looks at all aspects of climate risks. By working together and integrating our efforts, we can develop strategies that better understand the complex nature of climate

change, leading to stronger and more sustainable solutions for both communities and the natural world.

Successful mainstreaming of climate adaptation requires collaborative efforts and the alignment of responsibilities amongst the stakeholders to ensure that climate resilience becomes an integral part of Ireland's development trajectory and that the NAF's goals are effectively achieved.

2.5 Role of key actors in strengthening national adaptation and resilience

To deliver effective climate adaptation and achieve resilience, a whole-of-government approach is required given the cross-sectoral, transboundary nature of climate change. In terms of the NAF's development, implementation and review, the role of key actors across government departments and agencies is outlined below. These key actors include the Department of the Environment, Climate and Communications, the Climate Action Delivery Board, the EPA and the Climate Change Advisory Council

2.5.1 Role of the Department of the Environment, Climate and Communications

The Department of the Environment, Climate and Communications (DECC) in Ireland leads on the development, implementation, and review of the NAF. Its responsibilities are set out in the Climate Act. Under the legislation, DECC is tasked with overseeing the development of Ireland's NAF, which encompasses the strategic planning and coordination necessary to address climate-related challenges.

In the development phase, DECC works collaboratively with other government departments, local authorities, and relevant stakeholders to formulate Ireland's adaptation strategy. This strategy outlines the objectives, targets, and actions required to enhance the national resilience to climate impacts. It also addresses sector-specific adaptation needs, integrating climate resilience into various aspects of policymaking and planning.

Internationally, DECC is also responsible for reporting on Ireland's Climate adaptation progress under EU regulations, working with the Commission and other Member States to ensure that Ireland's policy response is ambitious and takes account of EU Adaptation policy. Information on EU developments is disseminated to Sectors and the LAs through the NASC - National Adaptation Steering Committee (see section 1.25)

During implementation, DECC provides leadership and support to ensure that the NAF's provisions are put into action effectively. The Department plays a key role in fostering cross

sectoral cooperation to drive adaptation efforts forward. DECC assists Met Éireann, the EPA and other bodies to progress crucial adaptation developments including the NFCS, Climate Ireland and the NCCRA. DECC issues Ministerial Guidelines to LAs for the development of LACAPs as outlined in the Local Authority Section (Section 2.7.3). Furthermore, DECC is instrumental in ensuring that climate adaptation actions are included appropriately in the statutory national Climate Action Plans and in other relevant national policy. Through these actions, DECC contributes significantly to Ireland's ongoing efforts to adapt to the challenges posed by climate change.

2.5.3 Role of the Climate Action Delivery Board

The Climate Action Delivery Board is responsible for overseeing and coordinating the implementation of Ireland's Climate Action Plan, ensuring that the nation effectively mitigates and adapts to the impacts of climate change. It is jointly chaired by the Secretaries General of the Department of the Taoiseach and DECC. Its key responsibilities include monitoring the progress of climate actions, reviewing and updating targets, and engaging with various stakeholders to drive climate action measures, including those relevant to adaptation.

2.5.4 Role of Climate Change Advisory Council

Under the Climate Act, the Climate Change Advisory Council (CCAC) is assigned responsibility for providing continuous input to and assessment of national climate change initiatives. The core role of the CCAC is assessing and advising Government on climate change policy. In 2016, the CCAC established an Adaptation Committee which aims to support the Council with its role in relation to climate adaptation. The Adaptation Committee provides an additional layer of support for the Council in ensuring matters relating to climate adaptation and resilience are appropriately examined.

A crucial work stream of the CCAC is the publication of its annual review on progress towards achieving the national climate objective. These reviews focus on Ireland's performance during the preceding year on national goals relating to climate change adaptation and mitigation, and compliance with EU and international climate-related obligations. As part of its annual review, the CCAC also considers developments made in terms of supporting a just transition in terms of both mitigation and adaptation – noting in its 2023 review the need to accelerate the integration of the just transition principles across all mitigation and adaptation policy development and implementation.

2.6 Creating an enabling environmental for effective climate adaptation action

It is critical to ensure that there are appropriate enabling conditions in place that support the development and implementation of climate adaptation measures. The creation of such an enabling environment includes:

• The development of a strong evidence base and capacity to deliver targeted and informed measures.

• A planning process, including the National Planning Framework that integrates climate adaptation criteria and objectives.

• A proactive role for wider actors, such as civil society and the private sector, who can champion the implementation of climate change adaptation through behavioural change, awareness raising and investing in on-the-ground adaptation solutions.

2.6.1 Development of the Evidence Base

Adaptation planning and actions should be based on a robust evidence base and accessible data. This includes evidence of not only climate hazards, exposures and vulnerabilities but also of climate adaptation interventions and practical approaches to climate adaptation planning. The role of the EPA, Met Éireann, the OPW, Commercial Semi-States and research in the development of the evidence base is outlined below.

2.6.1.1 Role of the EPA

The EPA plays a key role in adaptation governance and implementation structures by delivering across the areas of climate risk, climate services, evidence and knowledge. This includes providing technical support for climate adaptation in Ireland by developing and delivering Ireland's National Adaptation Platform, Climate Ireland (www.climateireland.ie), to its full potential, guidance and tools for policy makers, local authorities and sectoral adaptation leads, and the further development of the Climate Ireland Adaptation Network (CIAN).

In terms of Climate Risk, the EPA informs and supports decision making under uncertainty and adaptation planning at national, sectoral and local government levels and is leading the delivery of Ireland's first National Climate Change Risk Assessment to prioritise climate change impacts and actions across all sectors.

To progress adaptation research, the EPA develops capacity in climate adaptation through the EPA Research Programme and supports adaptation planning through their environmental monitoring and reporting programmes. The EPA works to integrate climate resilience and adaptation priorities across EPA work areas to optimise co-benefits for the environment and public health. In particular, focusing on water quality and quantity (Water Programme), Environmental Licensing, and incorporating climate change risk into emergency preparedness. The EPA also provides and supports development of timely evidence and knowledge to drive adaptation planning and implementation in Ireland through its delivery of EU and UNFCCC adaptation reporting, participation and leadership in national adaptation fora and at EU level in EEA EIONET.

In March 2024, the European Environment Agency (EEA) published the European Climate Risk Assessment (EUCRA). At the national level, the EPA is currently developing the National Climate Change Risk Assessment. These assessments will strengthen the existing knowledge base on climate-related hazards and risks in Europe and Ireland, which will support improved adaptation planning and decision-making. Ultimately, these assessments will act as a critical decision-making support tool for identifying adaptation-related policy priorities, informed by robust climate science. As such, these assessments act as levers for further enabling effective adaptation action.

2.6.1.3 Role of the OPW

The OPW delivers public services for flood risk management, managing government properties and heritage services. Crucially in terms of the NAF, the OPW acts as the leading agency for flood risk management in Ireland with the aim of minimising the impacts of flooding through sustainable planning52 and it is the competent authority for flooding related climate services. It is also the national authority for the implementation of the EU Directive on the Assessment and Management of Flood Risks (2007/60/EC). The OPW focuses on three strategic and policy areas founded on a robust evidence base developed through data collection, research and assessment53:

- *Prevention: e.g., avoiding development in flood-prone areas*
- *Protection: e.g., taking feasible measures, both structural and non-structural, to reduce the likelihood and impact of floods*
- *Preparedness: e.g., informing the public about dealing with flood risk and a flood.*

The OPW has made significant progress on implementing its flood risk management SAP. Looking ahead, the OPW will continue to play a critical role in ensuring Ireland's adaptation and resilience to flooding.

2.6.3 National planning processes

Ireland's planning process provides an important enabling environment to mainstream climate change adaptation. Sustainable Development and the achievement of the SDGs continues to provide both the underpinning philosophy and the guiding objectives for planning. Cross-cutting planning frameworks and policies, such as the National Planning Framework and Regional Spatial Economic Strategies, and compliance processes such as Strategic Flood Risk Assessment, Strategic Environmental Assessment, and Appropriate Assessment, allow for the integration of climate adaptation objectives at the national, regional, and local level. As outlined below, these assessments play a crucial role in integrating environmental considerations into decision-making processes, helping to strike a balance between development and environmental conservation in Ireland while complying with European Union directives and regulations. Planners are well placed to facilitate these processes, however the need for increased staff numbers in local authority planning departments to allow this to occur has been previously flagged and further research is needed on how to strategically integrate long-term projections into spatial planning and the siting of critical infrastructure.

2.6.3.2 Regional Spatial and Economic Strategies (RSES)

Regional Spatial and Economic Strategies (RSES) are comprehensive planning frameworks that play a pivotal role in guiding the development and economic growth of regions. Typically created and implemented by regional assemblies or government bodies, these strategies are instrumental in shaping regional policies and investments. A key aspect of RSES is their incorporation of environmental and climate considerations. They prioritise sustainable development practices, acknowledging the importance of mitigating environmental impacts and adapting to the challenges posed by climate change. These strategies outline the long term vision for a region, taking into account factors like land use, transportation, housing, and infrastructure. Moreover, RSES serve as a crucial foundation for aligning county-level plans, ensuring coordinated and coherent development across different administrative units within a region, ultimately striving for a balanced and sustainable economic and environmental future.

The RSES is required to produce updated mapping but has not yet done so.

2.6.3.3 Strategic Flood Risk Assessment (SFRA), Strategic Environmental Assessment (SEA), Appropriate Assessment (AA) and Environmental Impact Assessment (EIA)

In Ireland, Strategic Flood Risk Assessment (SFRA), Strategic Environmental Assessment (SEA), Appropriate Assessment (AA) and Environmental Impact Assessment (EIA), are integral tools for ensuring sustainable development and environmental protection. These assessments include various requirements to address climate change across different levels of the planning and consenting process and are guided by specific requirements and regulations or guidelines to address various aspects of environmental planning and decision making.

***Box 5** Climate change will continue to cause damage to the environment and compromise economic development. In this regard, it is necessary to assess the impact of projects on climate (for example GHG emissions) and their vulnerability to climate change (EU Directive 2011/92/EU as amended by EU Directive 2014/52/EU)*

***Strategic Flood Risk Assessment:** The need for undertaking SFRA is set out in the Section 28 Guidelines for the Planning System and Flood Risk Management.57 SFRA is a means for assessing flood risk as part of the planning processes at all levels and informing decision-making in line with the sequential and risk-based approaches set out in the Guidelines to promote sustainable development and avoid inappropriate development in flood-prone areas.*

***Strategic Environmental Assessment:** SEA is a broader assessment process that integrates environmental considerations into the development and implementation of plans, policies, and programmes. It is governed by the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (S.I. No. 435 of 2004)58, as amended, and the Planning and Development (Strategic Environmental Assessment) Regulations 2004, as amended, which implement the EU SEA Directive (2001/42/EC). SEA helps ensure that strategic decisions consider environmental protection and sustainable development. These assessments are carried out regularly, particularly when drafting new national, regional, or local development plans or significant policies.*

***Appropriate Assessment**: Focuses on the conservation of natural habitats and species protected under the EU Habitats Directive and Birds Directive. It assesses whether a proposed plan or project could adversely affect Natura 2000 sites, which are designated areas for the conservation of biodiversity. Appropriate Assessment is mandated under, inter alia, the European Communities (Birds and Natural Habitats) Regulations 2011, as amended. It must be conducted whenever a plan or project is likely to impact Natura 2000 sites and assesses the potential impacts and mitigation measures to ensure site*

conservation. The need for Appropriate Assessment arises as part of the planning or consenting process and is essential for protecting Ireland's unique biodiversity.

***Environmental Impact Assessment**: EIA is a critical process that evaluates the potential environmental impacts of proposed projects before they are approved or authorised. In Ireland, EIA is mandated under sectoral legislation (primary and secondary) which implement the EU EIA Directive. EIA examines projects such as infrastructure development, industrial facilities, or urban planning to assess their potential effects on the environment. It is important that EIA Reports provide clarity on whether climate resilience has been appropriately considered in the design and implementation of a development scheme. It requires the submission of comprehensive environmental impact statements and public consultation. The frequency of EIA depends on the scale and nature of the project but is generally required for significant developments.*

2.6.4 Private Sector, Civil Society and International Development

The inclusion of the private sector, civil society, and international development in climate change adaptation frameworks is crucial because these entities bring diverse resources, innovative solutions, and broad stakeholder engagement necessary for comprehensive and effective adaptation strategies. Their collaborative efforts can enhance resilience, distribute responsibilities, and ensure that adaptation measures are both sustainable and inclusive, addressing the needs of the most vulnerable populations.

2.6.4.1 Role of Private Sector

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

2.6.4.2 Role of Civil Society

Civil society, which includes individuals and non-governmental organisations, has a significant role in enabling climate change adaptation in Ireland from the bottom up. At the individual level, people can adopt climate-resilient behaviours such as conserving energy, using water wisely, and actively participating in community initiatives. They can also make a difference through advocacy, raising awareness, and supporting policies that promote climate adaptation. Non-governmental organisations (e.g., Friends of the Earth Ireland and An Taisce) are instrumental in conducting research, providing expertise, and engaging in community outreach and education to drive adaptation efforts. These NGOs often serve as a crucial link between local communities and government entities, ensuring that adaptation strategies include the needs and perspectives of marginalised groups. Additionally, NGOs hold governments accountable for their climate commitments and advocate for stronger climate policies. Together, civil society, encompassing both individuals and organisations, plays a pivotal role in supporting a climate-resilient Ireland through collective action, knowledge sharing and advocacy. ***Furthermore, public consultations at all levels of the climate conversation regarding adaptation are imperative to success of adaptation plans.***

2.7 Requirements for sectoral and local adaptation planning

Given the potential scope and scale of the impacts of climate change, the importance of relevant government departments taking ownership of and acting as an advocate for the implementation of adaptation action across their respective sectors is crucial. Climate change impacts can be multifaceted and sector-specific, making it essential for specialised staff to identify and oversee the implementation of adaptation actions. Government departments and agencies possess the in-depth knowledge and expertise needed to understand the unique challenges and vulnerabilities within their sectors as well as to identify gaps in existing policy responses that could negatively impact overall climate resilience. They also have established linkages with their Agencies, with bodies under their aegis and with other relevant stakeholder groups that are necessary to communicate the need for adaptation and to deliver adaptation action. Each sector should identify their own relevant impacts of climate change to ensure adaptation plans are tailored and prioritised to address relevant risks and opportunities.

2.7.1 Cross-cutting Adaptation Planning

Government departments should foster cooperation in other cross-cutting policy areas pertinent to adaptation, even if not directly under their remit but necessitating their input and advice, in recognition of the crosscutting nature of climate impacts. This is especially important in sectors such as health, flood risk management, critical infrastructure, marine and coastal issues, and emergency planning but is applicable to all sectors. Statutory responsibilities span across various government departments in certain areas, and existing

structures can facilitate cooperation (e.g., Interdepartmental Marine Coordination Group, Interdepartmental Flood Policy Coordination Group and Government Task Force on Emergency Planning). It is imperative that departments engage with other sectors, key stakeholders within their own sectors, champion adaptation policies, and encourage the private sector and civil society to actively participate in collective adaptation.

Climate change impacts often transcend departmental remits, making it essential for different departments to work together. By fostering cooperation, departments can ensure that critical cross-cutting adaptation challenges are not overlooked or left unaddressed. This collaborative approach enables a holistic and coordinated response to climate change challenges, enhances Ireland's resilience and avoids potential gaps or duplications in adaptation efforts. It recognises that the collective response is greater than the sum of individual departmental actions - ultimately leading to a more robust and interconnected national adaptation strategy.

2.7.2 Sectoral Adaptation Planning

In 2021, the EU adopted a new EU Adaptation Strategy61, expanding sectoral coverage at EU level beyond those identified in the 2013 EU Adaptation Strategy 62to include additional EU policy areas such as Biodiversity and Disaster Risk Reduction. Appendix 6 of the NAF includes a comparison with EU policy areas identified as particularly relevant to adaptation under the EU Strategy on Adaptation to Climate Change with those identified in the NAF (2018). This identifies potential gaps in the coverage of Ireland's current list of sectors.

Based on this review, two additional sectors, Tourism and Built Environment/ Planning, have been included (BE/P for a scoping exercise) as part of this NAF, while five cross-cutting policy issues (Coastal, Built Environment, Urban Environment, Health Impacts and DRR) are identified as relevant across other SAPs.

For cross-cutting policy issues (Coastal, Built Environment, Urban Environment, Health Impacts and DRR), SAPs can be developed with improved coordination among government entities, leading to more effective policies and resource allocation. They also facilitate comprehensive solutions to interconnected climate challenges, benefiting vulnerable communities and ecosystems. For example, the collaborative effort behind the National Coastal Change Management Strategy Report demonstrates the value of inter-departmental work to overcome policy and governance challenges.

The four thematic areas identified are as follows:

• Natural Environment, which comprises landscapes, seascapes, ecosystems, plant and animal life within Ireland and its ocean territory.

• Built Environment and Infrastructure, which comprises human-made surroundings, structures, and any supporting infrastructure created using material, spatial, and human resources.

• Human, which relates to people's physical and mental health (human); the norms, rules and institutions of society (social); and the knowledge, heritage, beliefs, arts, morals, laws, customs that infuse society (cultural).

• Economy, which relates to the production and consumption of goods and services, as well as the financial and economic systems that enable this.

2.7.3 Local and Regional Adaptation

Under the Climate Act, LAs are required to develop Local Authority Climate Action Plans (LACAPs) covering a five-year period in consultation with adjoining LAs and relevant stakeholders. These plans must specify mitigation and adaptation measures consistent with national strategies and policies. The first LACAPs were adopted by all 31 local authorities in early 2024. These plans bring forward adaptation and mitigation measures in an integrated manner, building on work previously undertaken through the development of LA Climate Change Adaptation Strategies, prescribed under NAF 2018. The LACAPs will strengthen the alignment between national climate policy and the delivery of effective local climate action. Importantly, the responsibility for implementing these LACAPs lies with the respective LAs, recognising the unique challenges presented by climate change at the local and community level. These LACAPs will be consistent with the approved national Climate Action Plan and NAF. Following adoption, the plans are valid for 5 years.

Biodiversity

The sector has been identified as having a lack of capacity and programmes in place to monitor SAP implementation. This has been a key challenge for progressing the majority of actions in the SAP. Significant data gaps exist for the sector including an understanding of climate change impacts on biodiversity. Progress has been made in the sector for peatlands, with significant finance mobilised for peatland restoration.

Given the cross-sectoral nature of biodiversity, responsibility for its protection, management and restoration sits across multiple government departments, local authorities, and non-state actors. This coupled with the fact that the National Parks and Wildlife Service (NPWS) is not resourced or empowered to oversee the actions of other sectors remains a challenge. Improved coordination across sectors is increasingly important to reduce or stop further adverse impacts on biodiversity and to leverage the delivery of co-benefits from nature based solutions and restored ecosystems.

1.8. The National Planning Framework – First Revision (April 2025)

Key future planning and development and place-making policy

Harnessing the potential of the region in renewable energy terms in accordance with the capacity allocation targets set out in Chapter 9: Climate Transition and Our Environment, across the technological spectrum from wind and solar, in addition to biomass and wave energy.

Renewable Electricity

As well as the national targets for the electricity sector, there are also regulatory and policy developments at an EU level that require Ireland to move towards a rapid reduction in reliance on fossil fuels. These include the REPowerEU Plan proposed by the European Commission, which seeks to support the expansion of renewable infrastructure through a number of measures such as streamlining the permitting processes for wind and solar projects. The recast Renewable Energy Directive III ("RED III") requires Member States to identify "renewables acceleration areas". This will have spatial implications in relation to where renewable energy developments can be prioritised for delivery.

This Member State has neglected to do as required in the Directive. Furthermore, if ultimately this location is a chosen location as a "renewables acceleration area" then a 10 year planning permission is contrary to the declared European and National policy.

Rural Areas and Energy Production

Development of renewable energy generation can include co-location with agricultural activities that supports both a reduction in carbon emissions and land use diversification options for farmers in line with the carbon budget programme and the Climate Action Plan 2024. Opportunities also exist for co-location of renewable technology in areas, alongside transport infrastructure corridors, within forestry lands, and on industrial and post-industrial peat lands.

It is no mistake that the NPF excludes residential areas in this commentary on location. While the subject site is at an interface of agricultural and sub-urban uses any reasonable assessment would provide for a reasonable set-back of this quassi industrial development from well-established residential development. The location of this development was not plan-led in the extant context of RED III.

Regional Renewable Electricity Capacity Allocations

In order to facilitate the accelerated roll-out and implementation of renewable electricity infrastructure for onshore wind and solar generation development and to achieve the national targets set out in the Climate Action Plan 2024, **this Framework indicates a range of regional renewable electricity capacity allocations. These allocations are to be integrated into the Regional Spatial and Economic Strategies and the associated Regional Renewable Energy Strategies and in addition are to be translated to county-level targets that will inform city and county development plans.**

Having regard to this evaluation, each Region **must plan** for sufficient wind and solar energy development in order to achieve the targeted regional renewable electricity capacity allocations outlined in Table 9.1, taking into account factors influencing delivery including attrition rates and changes to energised capacity levels, (in addition to current installed energised capacity), in order to facilitate, at a minimum the 2030 national renewable electricity generation targets. **The RRES roadmap will provide further guidance in this regard.**

In order to meet Regional Renewable Electricity Capacity Allocations and to ensure that the electricity can be both accepted on the national grid and brought to demand users, this will require the development and expansion of the electricity grid, at a national and local level, **in a coordinated manner.**

I have emphasised the elements of the NPF relevant to this case. We are entitled to see the figures and locations as promised in the NPF. It is unreasonable to set high level policy when the subservient policies at regional and county level have not been applied in a timely manner as indicated. There are no published allocations or roadmap of further guidance for decision makers or the public and definitely no co-ordinated development proposals. This proposal is premature until such time that the plan is fulfilled as intended.

National Policy Objective 23

Protect and promote the sense of place and culture and the quality, character and distinctiveness of the Irish rural landscape including island communities that make Ireland's rural areas authentic and attractive as places to live, work and visit. Any successor policy documents relating to national policy for rural areas and the islands will

ensure continued alignment and consistency with the National Policy Objectives of this Framework.

This objective was not considered in respect of choosing this location for such an industrial scale development. A fundamental principle for proper planning and sustainable development is that development is plan-led. That goes to the core of mapping suitable locations for both wind and solar development.

National Policy Objective 29

Project the need for single housing in the countryside through the local authority's overall Housing Need Demand Assessment (HNDA) tool and county development plan core strategy processes.

National Policy Objective 30

Facilitate the development of the rural economy, in a manner consistent with the national climate objective, through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting biodiversity and the natural landscape and built heritage which are vital to rural tourism.

National Policy Objective 70

Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a climate neutral economy by 2050.

National Policy Objective NPO 74:

Each Regional Assembly must plan, through their Regional Spatial and Economic Strategy (RSES), for the delivery of the regional renewable electricity capacity allocations indicated for onshore wind and solar reflected in Table 4-1, and identify

allocations for each of the local authorities, based on the best available scientific evidence and in accordance with legislative requirements, in order to meet the overall national target.

> *This shows clear support for the build out of renewables and onshore wind and sets a deployment target of 978 MW for the southern region. The Proposed Development will contribute toward achieving both the regional and national objectives for renewable electricity generation.*

Each Regional Assembly will prepare a Regional Renewable Electricity Strategy (RRES), whereby additional detail will be outlined on how the regional renewable electricity capacity allocations for the region can be best achieved in a consistent and sustainable manner, including the identification of specific targets for each of the constituent local authorities.

This National Policy Objective has not been complied with as the RSES has not been reviewed or updated. This application is premature in advance of a considered strategy for the region. Notwithstanding the chaos with wind guidelines not being updated or implemented there are no guidelines for solar to assistance decision makers.

National Policy Objective NPO 75

Local Authorities shall plan for the delivery of Target Power Capacity (MW) allocations consistent with the relevant Regional Spatial and Economic Strategy, through their City and County Development Plans.

Clare County Council has not amended its development plan to take account of this objective. Such updates should have been available to decision makers in assessing this proposed development.

National Policy Objective 82

Integrated planning for Green and Blue Infrastructure will be incorporated into the preparation of statutory land use plans while maintaining ecosystem services and ecosystem functions and conserving and/or restoring biodiversity.

National Policy Objective 107

Continue to ensure the alignment of the National Planning Framework and the National Development Plan through delivery of the National Strategic Outcomes.

National Policy Objective 108

Develop and implement a new programme of monitoring of the implementation of the National Planning Framework, with a focus on measuring outcomes relative to the key strategic objectives of the NPF including more balanced regional development, city-based growth, compact growth and infrastructure delivery.

These objectives are aspirational and have not been implemented to assist decision makers or stakeholders.

1.9.Regional Spatial and Economic Strategy (RSES):

The RSES dated 2020 and has not been updated as prescribed in RED III or the revised NPF. The extant version has nothing to offer the decision maker in respect of altered policy in RED III or the NPF.

1.10. CDP

The CDP has little if anything to assist in this process given that its mapping and objectives are based on assessments made prior to 2017 when it was implemented and carried over into this current plan. As per 11.8.5 below.

3.4.8 Core Strategy and relevant Environmental Assessments

In accordance with the provisions of Section 10(1D) of the Planning and Development Act 2000, as amended, the development objectives in the development plan are consistent, as far as practicable, with the conservation and protection of the environment.

Clearly, Clare County Council, were, as far as practicable, enlightened and ahead of the Coolglass curve. However, through no fault of its own, the CDP and its Volume 6 Wind Energy Strategy is moot and superseded. The review to this CDP decided, on the basis that the draft wind guidelines had not been updated or implemented, not to update the WES which was drafted prior to 2017 for the previous 2017- 2023 plan. This puts the following strategy into context.

6.18 Energy

County Clare's ability to continue to attract and retain high levels of foreign direct investment and to provide a supportive environment for industry will depend on its capacity to deliver a competitive and uninterrupted energy supply. County Clare has a secure energy supply and the network in the county has significant potential to accommodate further generating activity. The county also has potential to increase the production of electricity from renewable energy sources such as wind and tidal energy. The Council's Wind Energy Strategy (Volume 6) and Renewable Energy Strategy (Volume 5) provide for a strategic plan-led approach to secure renewable energy production in County Clare.

Renewable Energy Development

CDP8.12 It is an objective of Clare County Council:
To support the implementation of the National Renewable Energy Action Plan (NREAP), the Clare Wind Energy Strategy and the Clare Renewable Energy Strategy to facilitate the development of renewable energy developments in rural areas to meet national objectives towards achieving a low carbon economy by 2050 subject to the requirement of the RES SEA Environmental Report and the mitigation measures arising from the CDP Appropriate Assessment as contained in Volume 10(a).

11.8.5 Renewable Energy Sources

A Renewable Energy Strategy and Wind Energy Strategy have been prepared for County Clare and comprise Volumes 5 and 6, respectively, of this plan. The Clare Wind Energy Strategy identifies the optimum locations for wind energy developments in the county having regard to environmental and geographical constraints and the protection of the amenities of local residents. **An updated Wind Energy Strategy will be prepared upon the publication of the update to the Wind Energy Guidelines for Planning Authorities 2006.** [My emphasis]

The exuberance expressed by the applicant should be discounted in this assessment as RED III requirements have clearly superseded all aspects of the CDP.

Renewable Energy

CDP 11.47 It is an objective of Clare County Council:

c) To support the sustainable development of renewable wind energy (onshore and offshore) at appropriate locations and of its related grid infrastructure in County Clare, in accordance with all relevant policies, guidance and guidelines pertaining to the protection of the environment and protected habitats and species, and to assess proposals having regard to the Clare Wind Energy Strategy in Volume 6 of this plan and the associated SEA and AA, or any subsequent updated adopted strategy and to National Wind Energy Guidelines;

d) To prepare a new and updated Wind Energy Strategy for County Clare during the lifetime of this plan, subject to the publication of the update to the Wind Energy Development Guidelines for Planning Authorities 2006;

e) To strike an appropriate balance between facilitating renewable and wind energy-related development and protecting the residential amenities of neighbouring properties;

h) To ensure that all proposals for renewable energy developments and ancillary facilities in the county are in full compliance with the requirements of the SEA and Habitats Directives and objective CDP 3.3 of this plan

This objective refers to any subsequent updated adopted strategy and to National Wind Energy Guidelines. It is reasonably proposed that this application is premature until such time as the State implements updated Wind Energy Guidelines and the assessment and mapping required by RED III but not yet provided. Separation distances from residential development and turbine separation distances are of crucial importance in this assessment. Up to date statutory mapping and guidelines must be provided to assist the decision makers with proper planning and sustainable decisions.

1.11. Clare Wind Energy Strategy Volume 6

Preface

The Clare Wind Energy Strategy forms part of the Clare County Development Plan 2023-2029. In accordance with the requirements of the Department of Environment, Community and Local Government as set out in Circular PL20-13, the previous “Clare

Wind Energy Strategy 2017-2023" has not been reviewed as part of the preparation of this draft plan.

Circular PL20-13, dated 20th December 2013, states that in the cyclical review of a Development Plan it is advised that, until the national policy review processes have concluded in relation to the Wind Energy Development Guidelines and the Renewable energy Export Policy and Development Framework, local authorities should defer amending their existing Development Plan policies and should instead operate their existing Development Plan policies and objectives until the completion of these processes and further advice is issued.

The local authority has had regard to all the submissions received during the consultation stages of the Development Plan. However, any issues raised with regard to wind energy policy were addressed in the context of the requirement to comply with Circular PL20-13.

The Applicant embellishes its application with support from the CDP part of which includes this WES which can be seen is founded on a 2013 Department Circular Letter and the 2006 Wind Energy Guidelines which were not subject to SEA as required. It is worth An Coimisiún noting that in 2025 by motion the elected members of Clare County Council sought all wind energy decisions to be suspended until updated wind guidelines are implemented.

As the preparation or variation of local authority Development Plans must take account of all relevant and up to date national policy, it is therefore advised that until both of the above national policy review processes have concluded, local authorities should defer amending their existing Development Plan policies as part of either the cyclical review or variation processes. They should instead operate their existing Development Plan policies and objectives until the completion of these processes and advised otherwise by this Department.

That was in December 2013 and the revised guidelines or variations to CDP's with regard to wind policy have not changed since then.

2.3.3
Proximity to Residential Properties
A GIS system was used to create buffer zones of 400 metres from properties (residential and commercial). This was overlaid with data on sufficient wind speeds and proximity to the grid to identify potential strategic sites.
2.3.9

Landslide Susceptibility

The issue of landslide risk associated with wind farm developments particularly on peat soils was raised following consultation with the Geological Survey of Ireland (GSI) and the National Parks and Wildlife Service (NPWS). Following discussions with the GSI, sites of historical landslides and slopes greater than 15 degrees were mapped. Discussions with the NPWS suggested that landslides may be a risk at slopes of 4 degrees, depending on peat depth.

Slope is only one parameter in identifying areas of potential landslide susceptibility. In addition, other factors such as type of soil (mineral or peat), depth of soil, underlying bedrock, aspect and weather patterns can all contribute to landslide susceptibility. Therefore, this mapping is only a broad guide and does not replace more detailed site analysis.

The Geological Survey of Ireland advised that some very preliminary mapping could be undertaken but that landslide risk assessment is required on a site by site basis and policy should reflect the importance of undertaking adequate modelling, risk assessment, and mitigation at planning application stage.

2.4

Fieldwork

Following the GIS analysis, team members undertook fieldwork in the areas of the County that were identified as having sufficient wind speeds and proximity to the grid to merit closer scrutiny. This fieldwork was undertaken in June 2009 and assessed the following:

- *Impacts of existing and permitted wind farms in the County*
- *Ecological and land use issues in these areas*
- *Landscape and visual characteristics*

The current mapping is dated from 2009 and does not take account of current best practice for separation distances from residential dwellings, noise or safety issues associated with turbine wake issues.

WES Two: Development of Low Carbon Economy County Clare will seek to promote itself as moving towards becoming a low carbon County by 2017 as a means of attracting inward investment to the County and the wider Mid-West region.

WES 6.1 General Considerations for Applications for Wind Energy Development

• Clare County Council will require compliance with the Wind Energy Development Guidelines, Guidelines for Planning Authorities (DEHLG, 2006) in preparing planning applications.

By way of example the above demonstrates the ridiculously nature and relevance of the current WES. This may appear comical at one level but it is no joke for the people of Cahermurphy and its environs in circumstances where turbines are up to 77% larger than those in existence when this policy was developed. It is most unreasonable that development decisions are being made without updated guidance to all stakeholders but in particular decision makers.

> *WES Five: Promotion of Community Involvement Clare County Council will seek to promote community involvement and require community benefit where possible in Wind farm developments.*

In fairness to the elected members of Clare County Council they have made efforts to highlight the unfairness of the lack of statutory guidelines by seeking a stay on all wind planning decisions until guidelines have been adopted. The executive and the relevant Departments have done nothing in this regard and unless the matter is brought to a head will continue to do nothing. This is a fundamental issue in rural communities. Public health, environmental protection and residential amenity are all impacted by inappropriately located development.

> *WES Nine: 'Acceptable in Principle'*
>
> *These areas are considered suitable for wind farm development because of:*
>
> - *Sufficient wind speeds,*
> - *Access to grid network, and*
> - *Established patterns of inquiries. Projects within these areas must:*
> - *Demonstrate conformity with existing and approved wind farms to avoid visual clutter.*
> - *Designed and developed in line with the Planning Guidelines in terms of siting, layout and environmental studies.*
> - *Provide a Habitats Directive Assessment under Article 6 of the Habitat Regulations if situated in proximity to a Special Area of Conservation or Special Protection Area will require.*
>
> ***Target wind energy generation from Acceptable in Principle areas is 150 MW***

There is no assessment of the viability of the proposal or assessment of established and permitted capacity in acceptable in principle areas. In particular the referenced guidelines are useless in the context of this development.

WES 4

Advice on Landscape Capacity for wind energy developments based on Landscape Character Areas (LCA's)

A Landscape Character Assessment was undertaken in the County in 2002 and it described in broad terms the 21 different Landscape Character Areas (LCA) identified for the County. Each LCA is described in terms of landscape types, historic landscape types and habitat types. Key characteristics such as extent of, geology, landform, land cover and human influences as well as an outline of the landscape condition and sensitivity are also described.

This "current" WES is basing policy on a 2002 landscape assessment with no account of the extensively altered landscape in relation to forestry and constructed and permitted wind development in the interim. The landscape is completely altered since 2002 and that is another reason why a decision is premature in the absence of the Article 15b mapping which will take landscape capacity into account.

The development of specific measures for environmental parameters discussed in the following section is a consequence of the SEA and HAD process informing the Wind Energy Strategy. These measures seek to address significant environmental impacts associated with wind energy development at strategic and project level. There is a clear commitment by Clare County Council to ensure the implementation of these measures to facilitate proper planning and demonstrate best practice in planning for wind energy developments in the County.

1.12. Clare Local Authority Climate Action Plan

*1.6 Supporting a **Just Transition** for Clare*

The National Economic and Social Council have defined a Just Transition as: 'one which seeks to ensure transition is fair, equitable, and inclusive in terms of processes and outcomes'.

A just transition can also be defined as one which ensures the deliberative participation of affected and vulnerable communities in the transition to a carbon neutral society, so ensuring that people's livelihoods, safety, socioeconomic rights and wellbeing are protected through the transition.

1.13. Wind Guidelines 2006

In the first instance the 2006 guidelines have no proper status because they were never subject to SEA. Notwithstanding that they are 20 years behind the curve and of no relevance to a proposal such as this one. Once again the applicant is being cynical and disingenuous by claiming to have complied with these guidelines. The scale of this development was incomprehensible in a location such as this when those guidelines were first drafted.

1.14. Wind Guidelines 2019 Draft

Chapter 4 at section 4.8.2 re. Draft Revised Wind Energy Development Guidelines (WEDGs, December 2019).

While the previous Climate Action Plan 2024 set out a timeline of Q4 2024 for publication of the final updated Wind Energy Guidelines, the final version has not been issued/ published at time of completing this EIAR chapter.

This application is clearly premature in the absence of SEA founded statutory guidelines and RED III prescribed mapping for accelerated renewable energy.

1.15. Public Engagement:

This has become a nauseating theme in applications such as this. Decisions makers are not fools and developers should stop treating them as such. The decision makers will have a good flavour of the level of engagement by the individual submissions on this application. The truth of the matter is there is no statutory duty to engage and that is why developers do not do so.

The NPF tasked each RSES to compile the Article 15b mapping required. This was supposed to have been completed by the 21st May 2025 but has not been done. The State is once again in breach of another European Directive which may need to be teased out at a later stage. The claims of compliance with the CDP and WES are moot given that these too are not updated in line with RED III.

2. Invalid Application:

The application should be invalidated for any and all of the following reasons.

The Planning and Development Act 2000 as amended requires that in order to be a valid planning application there must be compliance with the permission regulations. The applicant did not comply with the required regulations.

> 34.—(1) Where—
>
> (a) an application is made to a planning authority in accordance with permission regulations for permission for the development of land, and
>
> (b) all requirements of the regulations are complied with,
>
> the authority may decide to grant the permission subject to or without conditions, or to refuse it.

The corollary to this is where an application is not in accordance with permission regulations and all the requirements of the regulations have not been complied with then the authority may not grant planning permission.

2.1.Wastewater:

It is stated in the EIAR Chapter 1 that during the construction phase, a self-contained port-a-loo with an integrated waste holding tank will be used at each of the site compounds, maintained by the providing contractor, and removed from site on completion of the construction works;

Wastewater effluent will be collected in an underground concrete holding tank and periodically emptied by a licenced contractor for the operational phase of the Proposed Development. Please refer to chapter 4 of the EIAR for further detail.

Indexed drawing 58 “Substation plan” shows 10,000 litre foul water tank and separately a sealed “cess-pool”. These are not included in the development description. It states that the use will be “minimal & intermittent”. That is of not proper information to either inform a planning application or more importantly an environmental assessment. Furthermore it states that “soakaway details to be confirmed”. At what point will they be confirmed and available for public participation?

On the same drawing it refers to “Harmonic Filter (future)”. Again there is no description in the application to any future harmonic filter and no other information on this in the application.

There is no lawful basis for such development and specialist waste permit holders are not licensed to remove wastewater. They are licensed to remove only sludge and washings only.

The “permission regulations” are the Planning and Development Regulations 2001 as amended in which Article 22 requires;

Content of planning applications generally.

22. (2) A planning application referred to in sub-article (1) shall be accompanied by

(c) where it is proposed to dispose of wastewater from the proposed development other than to a public sewer, information on the on-site treatment system proposed and evidence as to the suitability of the site for the system proposed,

That information was not provided in the application. The application has not complied with Article 2(2)(C) of the Planning and Development Regulations 2001 as amended and therefore the application should be declared invalid. This cannot be discounted as a harmless error. It is a statutory requirement and An Coimisiún does not have a discretion in this regard.

This application is subject to the requirements of s.34(1) as set out above and requires compliance with the permission regulations.

2.2.Applicant details:

The application cover letter declares that the Applicant for the Proposed Project, Cahermurphy Renewables Designated Activity Company, is a joint venture between FuturEnergy Ireland and Mid Clare Renewable Energy (MCRE) Ltd. Further details about the applicant are available in Chapter 1 of the accompanying EIAR. There are only two stated Directors, Peter Lynch and Padraig Howard on the application form. The other directors of this company and its subsidiaries are not listed as required.

2.3.Consent Letters:

The application includes consent letters two of which do not relate to this applicant or to this development. At a very minimum there is an unauthorised and inappropriate use of these letters with potentially other implications arising from their use in this context. The letters were signed by Anthony Dooley referring to development by MCRE Windfarm Ltd. and dated May 2020 and that of Thomas Egan - Cahermurphy, Kilmihil Co. Clare. CE8665F & CE19400F referring to MCRE Windfarm Ltd. and dated 12th May 2020. MCRE Windfarm Ltd. Is clearly not the applicant or in any way connected to this application.

2.4. Application form item 8. Site History:

This states that there is no knowledge of previous quarrying or flooding. Directors of the Applicant which are also directors of MCRE Windfarm Ltd. (now known as MCRE DAC) are aware of an unauthorised borrow pit and spoil deposition and flooding of land adjacent to the Cahermurphy 1 (East) incomplete windfarm development. This is material to this application particularly in relation to an incorrect baseline assessment in the EIAR and NIS to inform EIA and AA. See section below on Cahermurphy 1 grid connections.

2.5.Indicative Design:

There are no specific details for the turbine foundation bases in spite of claimed detailed geotechnical surveys. Turbine foundation drawings indexed as 44, 45, and 46 are indicative and do not specify which foundation design applies to which turbine base. Well established case law has found against indicative design.

Indexed drawing 67 states “TBC during detailed design”.

Indexed drawing 72 Type A - Upgrade tracks – no detail of the build-up is provided or whether crushed stone will be used to seal the shale for rising dust.

Similarly indexed drawing 73 Type B 800mm deep – there is no assessment of peat depth under existing tracks or roads in deep peat.

Southern Borrow pit indexed drawing 74 – The Cells are undefined

(9) Control of groundwater within the borrow pit will be required and measures will be determined as part of the ground investigation programme.

(12) All the above-mentioned general guidelines and requirements will be confirmed by the designer prior to construction. Why not now?

(13) Further guidelines on the construction of the borrow pit is included within Section 5.4 of the Peat & Spoil Management Plan. Section 5.4 of what?

Up to 16m in depth – this depth of peat is actually dangerous for people and animals.

Indexed drawing 76 has no section drawing for T2 peat deposition

P77 **Proposed Drainage Layout** - peat storage or deposition?

6. Pumped water will be directed into track side ditches and treated in settlement ponds and vegetation swales prior to overland discharge. There is no detail of how silt loaded groundwater encountered in borrow pit/ deposition cells will be treated before discharge.

There are no sections of infiltration drains or site assessment for infiltration to groundwater.

3. Cahermurphy 1

Mid-Clare Renewable Energy DAC - Cahermurphy 1 (East) Grid Connection

1. The substantive permission is ABP PL 03.**245189** on foot of the appeal of a refusal decision of Clare County Council in **14/551**. Of note is that application 14/551 did not include an application for a grid connection route and this is acknowledged by both the CCC Planner and the ABP Inspector. Furthermore, there has been no planning application for a grid connection in either of the two subsequent planning applications in respect of this development. (Variation to the sub-station and replacement of turbine No. 3 with a larger turbine).

2. During application 14/551 CCC sought Further Information in respect of updating the EIAR to include cumulative impacts from the connection route. The initial EIS included a reference to an intended overhead GCR to Booltiagh sub-station. In the event the submitted FI altered this to an underground GCR and included a drawing showing a GCR via the main entrance and then by public road to Booltiagh. This declared 20 watercourse crossings on the route many of which have connectivity to Natura 2000 sites and therefore required Appropriate Assessment. The project underwent EIA & AA by both CCC and ABP. The Board Direction was made on 16th June 2016 and included a **Note**:

   > The grant of planning permission does not authorise any works that relate to any grid connection route that is located outside the boundary of the site of the proposed development as indicated (outlined in red) in the plans and particulars referred to in condition number 1 above.

This has particular relevance in the context of events and case law in and around that particular time.

3. In or about April 2016 (**before the ABP decision)** the Developer made two section 5 referrals (16-20 and 16-33) to Clare County Council. On the 11th May 2016 CCC declared "*the provision of an underground cable along the public road corridor and existing tracks from permitted windfarm substation to the existing ESB Booltiagh substation is development and is exempt development.* A copy of this declaration is appended. (There was no permitted windfarm at that time)
4. I had no sight of the second referral and only became aware of it by the reference of the Planner in his report on application 19/159 (to vary turbine No. 3) in which the Planner states that a declaration was made by CCC that;

   > *The provision of an electricity cable both overhead and underground from the permitted Cahermurphy windfarm to existing ESB Booltiagh substation is development and is exempt development.*

5. In or about 2019 the Developer installed a grid connection which travelled initially underground to a point on the windfarm lands and then over ground for several kilometres to a point where it returned underground for connection to Booltiagh substation. This is the extant grid connection which has been energised since approximately 2022 when the initial

three turbines commence production. It has no planning permission and did not undergo EIA/AA.

6. For whatever reason it has become evident that the overhead GC is not acceptable to the ESB for connection of the 4th turbine (Turbine No. 3). It was allowed to be energised in late 2025 but the overall output from all four turbines is restricted to the previous permitted output from the initial three turbines.
7. In 2025 the developers commenced construction of an underground GCR from Booltiagh via public roads to a point approximately 1km from the windfarm where it diverted through private lands up to the boundary of the windfarm lands where it remains at this time.
8. Both the extant grid connection and this part-completed grid connection are unauthorised development on the following basis.
9. Historically an unchallenged section 5 declaration of a Planning Authority or ACP (ABP) could be relied upon by a developer on the well-established principle of certainty in planning matters. The vast majority of s.5's still benefit from this certainty but not the two Cahermurphy declarations or others precluded on environmental grounds.
10. The current planning status in Cahermurphy is that there is extant permission for 4 turbines and development within the red line boundary coincident with the leased lands. There is permission to vary the substation design. There is permission to vary turbine No. 3 with a larger turbine. There are at least three unauthorised development complaints in respect of noise, unauthorised borrow-pit, unauthorised felling and non-compliance with conditioned surface water mitigation. The planning authority acknowledged non-compliance with monitoring conditions in the parent permission PL 03.245189 (14/551).

Case Law:

In O'Grianna & Ors. v. An Bord Pleanála [2014] IEHC 632 Peart J declared; 12th December 2014

32. In that regard, I have already concluded that in reality the wind farm and its connection in due course to the national grid is one project, neither being independent of the other as was the case on R (Littlewood) v. Bassetlaw District Council [supra] for example. The Board's submissions are very much predicated on the contrary argument, and on the fact as submitted also by Framore that at this point in time there have been no proposals formulated by ESB Networks for the design and route of the connection to the national grid. That argument does not, it seems to me, justify treating phase 1 as a stand-alone project when in truth it is not. Rather, it points to a prematurity in the seeking of permission for the construction of the wind farm ahead of the detailed proposals for its connection to the national grid from ESB Networks. I appreciate that Framore have indicated that it simply is not possessed of the necessary information in this regard and could not include it in its EIS. But that does not mean that given more time and further contact with ESB Networks it could not be achieved so that it could be included in an EIS which addressed the impact of the environment of the total project "at the earliest stage". It may mean that the developer must wait longer before submitting its application for planning permission. But it seems to me likely at least that even if a phase 1 permission is granted with a condition such as Condition 4 contained therein, no sensible developer would complete phase 1 of the development without having been granted permission for the connection to the national grid, or without having been assured that the connection phase is exempted development. In that way, it is difficult to see any real prejudice to the developer by having to wait until the necessary proposals are finalised by ESB Networks so that an EIS for the entire project can be completed and submitted, and so that a cumulative assessment of the likely impact on the environment can be carried out in order to comply with both the letter and spirit of the Directive.

33. I will therefore grant the reliefs at D1 and D2 of the Abridged Statement of Grounds dated 14th February 2014.

8. It is submitted that in circumstances where clearly a new EIS must be prepared and submitted which takes account of the cumulative effects of both stages of the development, a remittal is inappropriate. The applicants do not agree that the powers available to the Board under the PDA 2000 and the Regulations enable the Board to comply with the requirements for an EIA in accordance with the Court's judgment.

9. This Court must regard the Board as a disinterested party. It has no stake in the commercial venture being pursued by Framore. If the Board as a statutory body charged with making decisions in these matters has taken the view that in the light of the findings of this Court it can carry out an EIA which accords with the Court's findings if the matter is remitted to it for a fresh decision, this Court should not lightly reject such an application to remit in favour of simply quashing the decision simpliciter with the result that the application goes back to square one. That has the potential to be wasteful in terns of delay and cost, and this Court ought not to adopt a course which is unnecessarily onerous upon the developer. There could be no question of this Court penalising the developer for not having proceeded correctly in the first instance, or because the decision made by the Board has turned out to be flawed because the EIA, based upon the EIS submitted by the developer, has been found to be flawed for all the reasons which have been given.

10. The Court should decide whether or not to remit on the basis of fairness and justice. If the situation can be reasonably expected to be remedied if remitted, and particularly where the Board is of opinion that this is the case, then this Court ought to remit the matter. That does not mean that this Court has in advance given some sort of 'imprimatur' to whatever new EIA is carried out for the purpose of any new decision the Board may make. If the applicants are not satisfied that the new EIA has been carried out in accordance with law, no doubt they will be entitled to again seek leave to challenge it, as they did before. For that very reason, it stands to reason that this Court should take very seriously a submission by the Board itself that it will be in a position to carry out a fresh EIA in the light of the Court's judgment. If the Board was not of that view, it would make no sense for it to seek such a remittal, even if the developer was keen to take a chance that it would achieve the desired result from its point of view.

11. In all the circumstances, I am satisfied that the justice of the case requires that the decision be remitted to the Board.

In O'Grianna & Ors. v. An Bord Pleanála [2017] IEHC 7 McGovern J. declared 18th January 2017

Discussion

38. The process in which the court is now engaged is judicial review and not an appeal on the merits of the decision of the board. It is not the function of the court to act in the role of a planning authority. Once the matter was remitted to the board it was required to ensure that the cumulative impact of the proposed wind farm development and the connection to the national grid were assessed before granting permission for the proposed wind farm development. I agree with the views expressed by Lord Hoffman in Berkeley v. The Secretary of State for the Environment to the effect that the E.I.A. Directive should be given a purposive interpretation and should not be used to strike down consents where there has, in reality, been substantial compliance with its requirements, having identified with precision what those requirements are. The E.I.A. Directive attempts to achieve one of the objectives of the European Union in the sphere of the protection of the environment and the quality of life but not in absolute terms. It involves striking a balance between the requirements of E.U. law and such discretion as is allowed to Member States in this respect. I entirely agree with the opinion of Advocate General Sharpston in Antoine Boxus and Ors. v. Région wallonne where she stated that the E.I.A. Directive is not about formalism but is concerned with providing effective E.I.As for all major projects and with ensuring adequate public participation in the decision making process. The principle of effectiveness is not a mandate for construing the Directive in the most onerous manner possible. This involves the courts being astute to ensure the objectives of the Directive are met but not in an overly pedantic way.

39. The E.I.A. Directive and the Irish legislation envisage a situation where there may be different stages of the consent procedure. This is recognised in the judgment of Peart J. in determining that for an E.I.A. to be completed at this state of the development, it was required to assess the cumulative impacts of the grid connection and the wind farm. It is also acknowledged in condition no. 2 applied by the board. The grid connection was not authorised by a decision of the board in these proceedings.

40. The principle point raised for the applicants in the substantive High Court hearing before Peart J. related to the absence of information on the grid connection to enable a cumulative assessment to be carried out and is not impugned in these proceedings.

41. In the current application the applicants have not raised any point on the substantive E.I.A. carried out nor have they purported to allege any deficiency in the E.I.A. The judgments of the Supreme Court in O'Connor v. Environmental Protection Agency [2003] 1 I.R. 530 and Martyn v. An Bord Pleanála [2008] 1 I.R. 336 suggest that an E.I.A. can be carried out at a stage wherein the partial consent for part of an overall project has been given.

42. The applicants in this case have not engaged with the content of the E.I.A. or shown any prejudice regarding matters they categorised as significant alterations to the application. When all is said and done the overall development is still a six turbine development with a connector and the decision impugned in this application concerns the wind farm aspect of that development.

43. So far as the Appropriate Assessment is concerned there is no evidence of any lacunae in the decision of the notice of the board.

44. In this application a significant part of the applicants' case is based on the assertion that, from the outset, the grid connection should have been included in a planning application. This is impermissible for two reasons:

> *(i) it is out of time; and,*
>
> *(ii) it offends the rule in Henderson v. Henderson (1843) 3 Hare 100 because it could, and should, have been made in the substantive proceedings before Peart J..*

Conclusion

45. Having considered the evidence before the court and the extensive legal submissions made by the parties I am satisfied that the applicant is not entitled to the reliefs sought in this application for the following reasons:-

> *(i) the E.I.A. assessment conducted by the board was adequate and was a necessary consequence of the remittal by Peart J..*
>
> *(ii) the Appropriate Assessment was conducted with complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effect of the proposed development on the three European sites referred to the decision of the board and in particular, the effects of other wind farms projects and sources of drainage run-off on Gearagh Candidate Special area of Conservation [cSAC];*
>
> *(iii) the applicants have not established any grounds for relief on the basis of the s. 132 notice served by the board and the notice parties response thereto; and,*
>
> *(iv) the permission granted does not authorise the development of the grid connection between Cleanrath and Derragh wind farm sites.*

46. In effect the board did what it was required to do pursuant to the remittal order by Peart J. and did so properly.

11. On the face of it the extant decision of ABP is on all fours with paragraph 39 of McGovern J. judgement. There was an EIA carried out which included the cumulative effects of the windfarm development including an underground GCR as defined in the submitted drawing from the Cahermurphy substation exiting at the main entrance and thereafter by the public road to Booltiagh substation. You will recall that the ABP Direction contained a note that permission for the GCR was not included in that decision as per paragraph 39 of this judgement.

We now consider Daly v Kilronan Windfarm & Ors [2017] IEHC 308 Baker J. on 11th May 2017

1. By notice of motion dated 24th November, 2016 the applicant has sought an order pursuant to s. 160 of the Planning and Development Act 2000 ("the PDA") prohibiting the respondents from carrying out works consisting of the construction of a trench and the laying of underground 38 kV cables to provide a grid connection between a wind farm at Derrysallagh, Co. Sligo to the 110 kV substation at Garvagh Glebe, Co. Leitrim. As will appear later in this judgment the application that cables already laid be removed has been withdrawn.

19. The circumstances in which an EIA or AA is required for a particular development are contained in s. 172 of the PDA, and Article 93 of schedule 5, part 2. para. 3(1) of the Regulations and provision is made for an EIA when a wind farm contains more than five turbines, or in the case of sub-threshold development where the planning authority or the Board determines that the proposed development is likely to have a significant effect on the environment. An underground grid is not an "installation for the harnessing of wind power", but the treatment of the grid works as exempt must be made in the context of recent jurisprudence.

23. The matter in issue in that case was whether the EIA required to consider the impact of the project as a whole, including the grid works. The present case raises a different question, and where permission exists for the primary development, and where taken alone the grid works are exempt under statute.

24. The planning permission in the present case contains an identical condition relating to the grid connection as was contained in the permission granted by An Bord Pleanála in O'Grianna & Ors. v. An Bord Pleanála, by which it was expressly stated not to comprise a permission for the connection to the grid, and Peart J. noted (at para. 29) that that condition did not make the construction of the turbine conditional upon consent being given for the connection to the national grid.

25. Peart J. did not decide the grid works required planning permission, or a separate EIA or AA. Haughton J. in Sweetman v. An Bord Pleanála & Ors. [2017] IEHC 46, considered the import of the decision of Peart J. in O'Grianna & Ors. v. An Bord Pleanála in circumstances where the question before him was whether the applicant was out of time to bring proceedings seeking judicial review of a decision of An Bord Pleanála under s.5 of the PDA. An Bord Pleanála asserted that it had in fact carried out a cumulative EIA and that the effects of the proposed development taken as a whole were acceptable from the environmental point of view. The applicant argued inter alia, that his challenge to the decision of An Bord Pleanála under s. 5 of the PDA could not be out of time as challenge would have been premature pending the determination of An Bord Pleanála on the application for planning permission when the grid connection was not included in the determination under s. 5.

26. At para. 12.2 Haughton J., having noted that Peart J. considered that the connection to the national grid was fundamental to the entire wind farm project, and that "in principle at least the cumulative effect of both must be assessed in order to comply with the Directive", commented as follows:

> *"His decision does not go so far as to say that separate EIA / AA of the grid connection must be carried out. Nor does his decision deal with the status of an earlier s.5 declaration of exemption in respect of the grid connection, or the impact of such a declaration on a later application for planning approval."*

27. The present case concerns to an extent the question observed by Haughton J. The issue here to be determined is whether it can be said that the works under construction are exempt.

28. Haughton J. correctly noted that the decision in O'Grianna & Ors. v. An Bord Pleanála did not address the import of a relevant s.5 declaration, and I turn to consider the argument in the present case regarding the declaration made by Leitrim County Council in relation to the grid works in its functional area.

33. Leitrim County Council made a declaration pursuant to s. 5 in respect of the grid works proposed in Co. Leitrim on 24th March, 2016 in which is recorded the following conclusion:

> *"…. the laying underground of approximately 2.8 km (38 kV) constitutes development and that such development is exempted development."*

34. The report from Bernard Greene, senior planner with Leitrim County Council, dated 21st March, 2016 which accompanies the decision, considered the impact of the decision of Peart J. in O'Grianna & Ors. v. An Bord Pleanála and expressed the view that "a planning authority need not slavishly adhere to an individual High Court case without giving due consideration to the facts in questions, having regard to the fact that the parent permission has not been challenged or revoked and to the legislation which is in place at the time of decision making".

35. A similar decision was come to by An Bord Pleanála regarding a grid connection in Co. Wexford, RL3408/09/10/11 where the view of the inspector was that, as the permissions for the wind turbines had been granted before the decision in O'Grianna & Ors. v. An Bord Pleanála, and as the permissions were valid and beyond challenge, the development of the grid connection was capable of being considered to be planning exempt.

36. ***That decision, and other decisions*** *to which the respondents refer, including a s. 5 declaration made An Bord Pleanála in similar circumstances in Co. Kilkenny, reference 10RL.3377,* ***do not represent the law insofar as a view is taken by An Bord Pleanála or the planning authority that development of a grid connection was capable of being treated as exempt from the requirement of planning permission*** *if the parent planning permission for the construction of the wind turbines and related works had been granted before the O'Grianna & Ors. v. An Bord Pleanála decision.* [**My Emphasis**]

*37. The judgment of Peart J. **is declaratory of the law**, a principle as old as Blackstone's Commentaries (1766), that the role of the judge was "not delegated to pronounce a new law but to maintain and expand the old one", what came to be called in later commentary the "declaratory nature" of the common law.* **[My Emphasis]**

41. That a judicial determination does not have "retrospective effect" in every sense was explained by Murray C.J. at p. 117:

> *"**Judicial decisions which set a precedent in law do have retrospective effect**. First of all the case which decides the point applies it retrospectively in the case being decided because obviously the wrong being remedied occurred before the case was brought. A decision in principle applies retrospectively to all persons who, prior to the decision, suffered the same or similar wrong, whether as a result of the application of an invalid statute or otherwise, provided of course they are entitled to bring proceedings seeking the remedy in accordance with the ordinary rules of law, such as a statute of limitations. It will also apply to cases pending before the courts. That is to say that a judicial decision may be relied upon in matters or cases not yet finally determined. But the retrospective effect of a judicial decision is excluded from cases already finally determined. This is the common law position."* **[My Emphasis]**

*42. No judicial determination had been made in regard to the grid connection in the present development and accordingly the principles explained by Murray C.J. are not engaged, nor is the principle in Henderson v. Henderson (1843) 3 Hare 100. **The view expressed by the inspector is incorrect as a matter of law and the decision of Peart J. in O'Grianna & Ors. v. An Bord Pleanála is applicable to planning applications where the issue of project splitting is relevant, notwithstanding that there exists an unassailable permission for the primary development, because an application for judicial review or an appeal would be out of time.*** **[My Emphasis]**

43. ***The declaration made by Leitrim County Council pursuant to its statutory power under s. 5 of the PDA cannot be regarded as an authoritative determination with regard to the central issue before me as to whether the construction of the grid connection required planning permission, or whether it is as a matter of law correct to describe it as exempt from planning permission on account of falling within Class 26 of the Regulations.*** *The s. 5 declaration was made in respect of different works in a different county,* ***and I consider that the basis on which the declaration was made was erroneous as a matter of law, insofar as it determined the question of exemption without a proper consideration of the effect of the decision of Peart J. in O'Grianna & Ors. v. An Bord Pleanála.*** **[My Emphasis]**

66. Further, the present case engages the imperative to respect Community law in the exercise of discretion and the requirement under Community law for the protection of the environment as mandated by the EIA Directive. ***The environmental factor is a significant element in this case, and while I accept that the respondents did not act deliberately in a way that ignored the imperative of Community law, and that planning permissions exists for the primary development, their advice and understanding of the law was incorrect, and the respondents were aware of the rejection of "project splitting" by Peart J. in O'Grianna & Ors. v. An Bord Pleanála.*** **[My Emphasis]**

Conclusion

103. For these reasons, and weighing the prejudice likely to be suffered by the respondents, the fact that the Refit grant time limits have been extended, and that the primary works are not yet commenced, I propose making a limited order prohibiting the continuation of the grid construction and laying works, but no order that the works already completed be removed or that the lands be restored.

12. It appears that Clare County Council were remarkable astute in November 2014 seeking a revised EIS in further information on the grid connection route. That was even before the 1st O'Grianna decision on project splitting (but after the hearing). Thereafter it dropped the ball, and badly. A herd mentality around s.5 declarations of exempt grid connections arose after the O'Grianna where EIA of the entire project had been carried out. Haughton J. in Sweetman v. An Bord Pleanála & Ors. [2017] IEHC 46 and Baker J. in Daly v Kilronan Windfarm & Ors [2017] IEHC 308 dealt comprehensively with that. Furthermore, Baker J. addressed the "retrospective effect" on existing section 5 declarations.
13. At its simplest a grid connection cannot be exempt development if an EIA forms part of the overall development and there is no comfort in a pre-existing s.5 declaration. The requirement for planning permission trumps a s.5 issued unlawfully or in error. That is the case in Cahermurphy.
14. For completeness, both section 5's reported to have been issued by CCC do not relate to the proposed grid route submitted in the further information EIS. That proposal was via the main entrance to the windfarm and by public road thereafter. There was no EIA assessment of either the constructed part overhead/part underground connection or the part completed underground route partly by public road and partly over private lands. Therefore both the GRC currently in use is unauthorised development as is the partly constructed underground grid connection.
15. The foregoing does not take account of the unauthorised borrow pit, unauthorised felling and non-compliant surface water regime in Cahermurphy 1 (East).

4. EIAR 1: Non Tech Cahermurphy

There are substantial opportunities available for areas where wind farms and other types of renewable energy developments are located, in the form of Community Gain Funds. The value of this fund will be directly proportional to the level of installed MWs at the site and will support and facilitate projects and initiatives including youth, sport and community facilities, schools, educational and training initiatives, and wider amenity, heritage, and environmental projects. The Proposed Project has the potential to increase the generating capacity of the wind farm and therefore there will be greater community gain.

So, is addition wind development, solar PV and battery storage planned along the GCR to make it viable.

Significant gaps remain in renewable energy deployment, particularly in grid capacity expansion, as well as onshore and offshore wind energy development, while continued reliance on fossil fuels threatens national and EU climate commitments.

So what is the capacity of the GCR? This GCR is not viable for this development alone and this is not addressed in the EIAR including the justification for it. The impacted community are entitled to be made aware of the actual intentions for this infrastructure.

The Clare Wind Energy Strategy (WES) 2023–2029, incorporated into the CCDP, provides a planning framework for wind development, identifying 'Strategic Areas' and 'Acceptable in Principle' zones based on wind resource, grid access, and environmental considerations.

The WES is a carryover from the previous CDP on the basis that the Wind Guidelines were not updated as expected. In any event all of this should be led by the RED III mapping which has not yet been published and in that regard this application is premature.

Furthermore, comprehensive community consultation has also been undertaken and detail of the Proposed Grid Connection for the Proposed Project has been provided and assessed as part of this EIAR, forming an integral part of this planning application.

This claim of community engagement can be assessed on the level of objection to this project. This engagement is a hollow claim. This community has been badly impacted by the unauthorised GRR for the existing windfarm. An Oral Hearing will expose the true level of community opposition which needs to be heard.

The Applicant also engaged with An Coimisiún Pleanála under the provisions of Section 182E of the Planning and Development Act 2000 (as amended) and a meeting was held on the 29th of August 2023.

This was in respect of the construction of proposed 110kV Infrastructure and Connection at the Existing 400kV Moneypoint Substation in relation to Cahermurphy West Wind Farm. A second meeting was also held on the 19th of September 2024 with An Coimisiún Pleanála where the design team gave an overview of the Grid Connection element of the Proposed Project.

In what respect did this happen with Cahermurphy 1? Is ACP aware that its conditions prescribed in Cahermurphy 1 have not been complied with?

The discussion on the Proposed Project primarily related to the Hen Harrier Offsetting and Enhancement Plan, with the NPWS highlighting some key aspects they would like to see included within the Plan, namely a monitoring plan for parameters and indicators of enhancement success at farmland enhancement areas, address the issue of nest predation within the hen harrier offsetting and enhancement lands and correct characterisation of impacts on hen harrier. The outcomes of all these consultations have been duly considered and integrated into the design of the Proposed Project and the preparation of the EIAR.

Post construction assessments and surveys conditioned for Cahermurphy 1 have not been carried out.

Cumulative Impact Assessment

The baseline assessment is flawed and incomplete. Unauthorised borrow pit, unauthorised drainage, unauthorised deforestation, non-compliance with post construction conditions.

Consideration of Reasonable Alternatives

Hen harrier vulnerability or avoidance of appropriate habitat did not inform the site selection. The application is premature until such time as the measures proposed to protect the very vulnerable hen harrier are proven to be effective.

Alternative Site Locations

Disingenuously claimed the site was selected “in compliance” with CPD. Why does it not refer to REDIII mapping for suitable locations for accelerated and co-located renewable development?

The proliferation of low-hanging fruit of on-shore wind generation will continue to impede the much more acceptable off-shore alternative. In time 25km Grid Connection Routes will be exposed as unnecessary environmental vandalism.

Alternative Grid Connection Options

The Proposed Wind Farm site will connect to the national grid via underground 110kV electrical cabling, located primarily within the public road corridor. Underground medium voltage electrical cables will transmit the power output from each wind turbine to the proposed onsite 110kV electrical substation, and from there to the existing Moneypoint 110 kV electrical GIS substation, via an underground 110kV electrical cabling route, measuring approximately 25 km in length.

A key consideration in determining the grid connection method for a proposed wind energy development is whether the cabling is undergrounded or run as an overhead line. While overhead lines (OHL) are less expensive and allow for easier repairs when required, underground cables (UGC) will have no visual impact. Underground grid connection routes are also considered to be the preferred option of connecting Wind Energy Developments to the national grid. For this reason, it was considered that underground cables would be a preferable alternative to overhead lines. The draft Wind Energy Guidelines 2019 also indicate that underground cables are the preferred option for connection of a wind energy development to the national grid.

Due to capacity constraints at Booltiagh and Slieve Callan identified during communications with EirGrid, it was decided that Moneypoint would be the most viable connection point.

The disingenuity is palpable. This was not an alternative decision. It was the only option allowed by Eirgrid. Why doesn't the developer present the communications with Eirgrid to inform the public and the decision maker?

The viability of this grid connection needs to be declared. This GC will need to attract other non-plan-led development to sustain it. A 25km GCR for an 8 turbine windfarm does not make economic sense. Future connectivity to this GCR needs to be included in this assessment at this time. The silence on this blatant issue screams project splitting.

Alternative Enhancement Lands. No post construction assessment of impacts from Cahermurphy 1 was carried out.

Alternative Mitigation Measures

The best practice design and mitigation measures set out in this EIAR will contribute to reducing any risks and have been designed to break the pathway between the site and any identified environmental receptors. These mitigation measures are proven effective. The alternative is to

either not propose these measures or propose measures which are not best practice and effective and neither of these options are feasible.

This claim is unsubstantiated.

Description of the Proposed Project

The proposed wind turbine layout has been optimised using industry standard wind farm design software to maximize the energy yield from the site, while maintaining sufficient distances between the proposed turbines to ensure turbulence and wake effects do not compromise turbine performance.

So it wasn't environmentally selected but economically selected.

The Proposed Wind Farm site makes use of the existing Wind Farm site road network insofar as possible. It is proposed to upgrade 4.5 kilometres of existing roads and tracks, and to construct 5.4 kilometres of new access road on the Proposed Wind Farm site. Areas such as wide junctions and proposed hardstands will also be used as passing bays throughout the construction phase of the proposed Wind Farm.

This proposed development cannot benefit from or be enabled by unauthorised or non-compliant development associated with the existing windfarm. Those matters must be regularised before this application can be considered.

Borrow Pits

It is proposed to develop 2 No. on-site borrow pits as part of the Proposed Project. It is proposed to obtain a majority of all rock and hardcore material that will be required during the construction of the Proposed Project from the on-site borrow pits. Usable rock may also be won from other infrastructure construction including the substation and the turbine base excavations. Some aggregate material due to a requirement for specific grade, quality or quantity may be sourced from suitable licenced quarries around the Site.

It is proposed to manage any excess overburden generated through construction activities locally within the Proposed Wind Farm site, in identified peat and spoil management areas. The purpose of the Peat and Spoil Management Plan (Appendix 4-3) is to provide a management plan, with particular reference to peat stability for the construction phase of the Proposed Project.

2 no. temporary construction compounds are proposed for the Proposed Wind Farm site to allow for storage and refuelling of plant and machinery within the Site.

Non-descript detail on volumes of extracted stone, imported crushed stone, rock-breaking and /or on-site crushing.

Based on the precautionary assumption that hen harrier will avoid all areas within 250 metres of a turbine and having calculated the amount of foraging habitat available on an annual basis (taking into account standard forestry management practices for forested areas), the estimated quantum of habitat from which hen harrier will be displaced is c.62 hectares. It is proposed to mitigate the impact of the Proposed Project on foraging hen harrier through enhancement of the surrounding lands. A detailed description of the enhancement measures for hen harrier are outlined in the Hen Harrier Enhancement Plan in Appendix 7-8 of the EIAR. A total of 123.7ha of enhancement lands is being proposed for the benefit of hen harrier which will result in a net gain of suitable foraging and breeding habitat of c.60ha being provided by the Proposed Project. It is proposed to enhance habitats such as heath/bog, forestry, scrub and grassland through the permanent removal of non-native commercial forestry plantations planted on underlying peatland habitat, retention and reinstatement of beneficial landscape features (e.g. scrub and hedgerows), through rush management, and through the management of grazing timing and intensity. The presence of breeding and foraging hen harrier adjacent to these lands, as well as the habitats present within the enhancement and adjoining lands were factors which were used to identify these areas as habitats suitable for enhancement.

Watercourses

The protection of the watercourses within and surrounding the site, and downstream catchments that they feed is of utmost importance in considering the most appropriate drainage proposals for the site of the Proposed Project. The Proposed Project's drainage design has therefore been proposed specifically with the intention of having no significant negative effect on the water quality of the site and its associated rivers and lakes, and consequently no significant effect on downstream catchments and ecological ecosystems.

This is an incredible claim given the knowledge of some of the principles proposing this development and their agent regarding flagrant abuse of watercourses in relation to the Cahermurphy 1 development and unauthorised felling. The conditioned surface water/watercourse management was no carried out as conditioned leading to the flooding of adjacent lands. Section 38 of the PDA should be applied to this application based on experience in the construction of Cahermurphy 1.

No routes of any natural drainage features will be altered as part of the Proposed Project and turbine locations and associated new roadways were originally selected to avoid natural watercourses, and existing roads are to be used wherever possible. There will be no direct discharges to any natural watercourses, with all drainage waters being dispersed as overland flows. All discharges from the proposed works areas will be made over vegetation filters at an appropriate distance from natural watercourses. The distance will vary between 5-20m depending on local slope, the nature of local soil deposits and also the type of vegetation present.

Buffer zones around the existing natural drainage features have been used to inform the layout of the Proposed Project.

These need to be properly defined. There are no section drawings for the infiltration ditches or assessment of infiltration capacity, if any. There is no specific design for the treatment of groundwater encountered in the deep excavations of the borrow pits and deposition cells.

At this stage it is not confirmed where the concrete required for the turbine foundations or the finer crushed stone required during the construction phase will be transported from. The closest operational quarry (Darragh Quarry)is located 25.5km southwest of the Site via the public road network, with multiple quarries also located to the east and northeast of the site connected via national, regional and local roads that may be used to provide concrete, rock and stone. While it is proposed that quarries situated closest to the site will be used in order to minimise the traffic effects of the Proposed Project, in order to test a robust traffic scenario, it is assumed that all concrete, rock and stone will be delivered along the Turbine Delivery Route.

This is inadequate information. Firstly, there is no proper assessment of the fill required or available on this proposed site. The existing roads/tracks are proposed to be widened with between 500-800mm of stone build-up. The section drawings do not provide any information on what proportion of this build-up will be won material and the proportion or depth of crushed imported topping. Similarly the new roads/tracks are proposed to be 800mm build-up with no details.

This is fundamental information to assess the volumes of won material required *vis a vis* the defined borrow pits and deposition areas or is the intention that the developer does as it wishes post decision as was done in Cahermurphy 1

Community Gain:

An important part of a renewable energy development, which Cahermurphy Renewables Designated Activity Company (DAC) (the Applicant) has been at the forefront of developing, is its Community Benefit Package.

An oral hearing will put this fallacy to bed for once and for all.

Flicker:

The Guidelines (DoEHLG, 2006) recommend that shadow flicker at neighbouring dwellings within 500 metres of a proposed turbine location should not exceed a total of 30 hours per year or 30 minutes per day. It is further noted that at distances greater than 10 rotor diameters from a turbine, the potential for shadow flicker is very low, and therefore the Shadow Flicker Study Area

is set at 1.63km (10 x rotor diameter 1.63km). There are 108 no. sensitive receptors located within 1.63km of the proposed turbine locations

The Commission needs to have access to resources to independently interrogate the flicked claims made by the applicant. This is an important public health matter which cannot be left to a developer provided assessment.

7 Birds

This chapter assesses the likely significant effects that the Proposed Project may have on bird species.

Firstly, a brief description of the Proposed Project is provided. This is followed by a comprehensive description of the methodologies that were followed in order to obtain the information necessary to complete a thorough assessment of the potential effects of the Proposed Project on bird species. The survey data is presented in full in the Environmental Impact Assessment Report (EIAR) appendices with a summary of the information presented within this chapter. An analysis of the results is then provided, which discusses the ecological significance of the birds recorded within the study area. The potential effects of the Proposed Project are then described in terms of the construction, operation and decommissioning phases of the development. An accurate prediction of the effects is derived following a thorough understanding of the nature of the Proposed Project along with a comprehensive knowledge of bird activity within the study area. The identification of Key Ornithological Receptors (KORs) and the assessment of effects follow a precautionary approach

No post commissioning surveys for Cahermurphy 1 considered.

With the exception of hen harrier, for which long-term significant negative effect (EPA, 2022) and high effect significance (Percival, 2003) were predicted. However, as detailed in Section 7.7, of Ch. 7: Birds of this EIAR, a robust offsetting and enhancement plan is proposed to reduce the magnitude of the impact from long-term significant negative effect (EPA, 2022) and high effect significance (Percival, 2003) to long-term slight negative effect (EPA, 2022) and low effect significance (Percival, 2003).

This is unproven and a slight long term impact on a very vulnerable species requires expert independent assessment. The Commission must be provided with the necessary resources to independently interrogate these claims.

An assessment of potential cumulative effects was also undertaken taking into consideration other extant planning applications and existing and proposed wind farms within 25km. No residual additive, antagonistic or synergistic effects have been identified with regard to habitat

loss, displacement or collision mortality for any of the identified KORs. No significant cumulative impacts are predicted.

What post commissioning reports on completed windfarms were taken into consideration?

8 Land, Soils and Geology

Site investigations and geotechnical assessments at the Proposed Wind Farm site were extensive and consisted of 583 no. peat depth probes, 36 no. trial pits and 2 no. bedrock boreholes. The geological setting of the Proposed Wind Farm has been thoroughly assessed, and the geological setting is fully understood.

If investigations were as extensive as claimed why is there ambiguity as to the type of turbine foundations required? Why is there no site suitability assessment or proposal for the treatment of wastewater arising as required in Article 22(2)(c) of PDR? Why is there no section drawings or assessment of infiltration from proposed infiltration trenches?

Bedrock was encountered at 4 no. turbine locations (T2, T3, T5 and T6) with depths ranging from 0.8m to 3m below ground level. Where bedrock was not encountered, refusal was typically on dense cobbles and boulders suggesting top bedrock is close.

Bedrock drilling encountered competent, strong siltstone or sandstone at shallow depths ranging from 2.6 to 3.9 metres below ground level. The investigations indicate that deep excavations will not be required due to the shallow depth of competent bedrock strata.

If these investigations are a comprehensive as claimed why are definitive specific proposals not included for turbine foundations. Where and why will piled foundations be necessary?

The investigation drilling demonstrates that the bedrock proposed for extraction at the proposed borrow pits is strong, competent and fit for the purpose of rock extraction and follow-on permanent storage of peat.

Will there be rock-breaking blasting or crushing? Need to clarify the use of won stone and make-up of roads/tracks.

The assessment also concludes that there will be no cumulative effects on land soil and geology environment as a result of the Proposed Project.

The assessment does not take into account the two grid connections for Cahermurphy 1 (East) and in-combination or cumulative effects for those grid connections which were not environmentally assessed prior to commencement. Neither does it take into account the use of an unauthorised/unassessed borrow pit and unauthorised/unassessed felling associated with construction of turbine No. 3 at Cahermurphy 1 (East) and unauthorised/unassessed diversion

of surface waters causing land flooding during construction of turbine No. 3 at Cahermurphy 1 (East).

9 Water

The primary risk to groundwater at the site would be from hydrocarbon spillage and leakages at the borrow pits. These are common potential impacts to all construction sites (such as road works and industrial sites). These potential contamination sources are to be carefully managed at the site during the construction and operational phases of the development and measures are proposed within the EIAR to deal with these potential minor impacts.

There is a risk, particularly to freshwater pearl mussel from groundwater encountered in 16m deep borrow pits being pumped to surface waters.

A self-imposed 50m stream buffer was used during the layout of the proposed wind farm development site, thereby avoiding sensitive hydrological features.

This was not observed or complied with in Cahermurphy 1 (East)

The present drainage regime of the site will not be altered in any way. Impacts on water quality during the operational phase of the wind farm will be negligible to none.

This was not observed or complied with in Cahermurphy 1 (East)

In terms of potential cumulative hydrological impacts with other wind farm developments, the biggest risk is during the construction phase of the development as this is the phase when earthworks and excavations will be undertaken at the sites. However, with regard the catchments relevant to the Proposed Wind Farm (i.e. Annageeragh and Creegh), all wind farm developments are existing and operational.

Therefore, there is no risk of a construction overlap with the operational wind farms and the Proposed Project. A similar scenario occurs in the catchments occupied only by the Proposed Grid Connection.

Therefore, it can be concluded with high confidence that the Proposed Project is not likely to contribute to cumulative effects with regard other wind farm developments in the Water Study Area.

The second (underground) grid connection for Cahermurphy 1 (East) is on-going development which is not mentioned in this application or assessment. The original overhead grid connection

was installed without any environmental assessment and without any planning permission. Neither are in accordance with the extant permission granted by ACP (ABP). See attached details. Therefore the claimed consideration of cumulative or in-combination impacts, including hydraulic impacts, has not been assessed and, more importantly, in this process the necessary information has not been provided to the Commission. As is usual. It's not what is included in an EIAR that is important, it's what is not included that really matters. There is no mention in this non-tech summary of the freshwater pearl mussel in the catchment.

10 Air Quality

The Institute of Air Quality Management in the UK (IAQM) guidance document 'Guidance on the Assessment of Dust from Demolition and Construction' (2024) (hereafter referred to as 'IAQM 2024 Guidance') was considered in the dust impact assessment. The guidance document outlines an assessment method for predicting the impact of dust emissions from construction activities based on the scale and nature of the works and the sensitivity of the area to dust impacts. This methodology has been used to predict the likely risk of dust as a result of the construction phase works operational phase activities and decommissioning phase.

A Construction and Environmental Management Plan (CEMP) will be in place throughout the construction phase (see Appendix 4-5). The CEMP includes dust suppression measures.

No assessment of dust arising from the internal roads/tracks and need for a capping layer.

12 Noise and Vibration

There is no reference to assessment or information provided on in-combination or cumulative impacts with noise originating in Cahermurphy 1 (East). Furthermore, Cahermurphy 1 (East) turbine 3 has not be fully commissioned to date and therefore there can be no baseline assessment for in-combination or cumulative impacts from the adjoining four turbines until fully commissioned. This information has not been provided in the EIAR.

14 Landscape and Visual

The LVIA is supported by site visits and various best practice tools for LVIA, such as the production of verified photomontages, ZTV mapping, a Route Screening Analysis and an impact assessment methodology which follows best practice guidance for LVIA.

Impacted stakeholders are despondent in recent times as to how the merits of such proposed development can be properly considered and that is no reflection on either a Planning Authority or the Commission. In reality the Coolglass decision and the Climate Action and Low Carbon Development (Amendment) Act 2015 as amended has driven a coach and four through the legitimate concerns of local impacted residents. A proper transposition of RED III might have addressed some of those concerns but the intended mapping has not been completed to date. The submitted commentary of a consultant from the other side of the Country "supported by site visits" adjudicating on visual impacts on what generations of indigenous farming families have ingrained in their very being, is most insulting. The local residents who have not bought-off will be overwhelmed by this proposed development. Apart from operation stage flicker, and particularly noise, there is a constant mental health impact for living in subservience to this monstrous structures. Turbines of such size are obviously fantastic technology but are properly located on open prairies or in vast uninhabited tundra in other countries. Structures such as these are completely inappropriate in close proximity to residential locations.

The siting of the proposed turbines within the 'Transitional Marginal Landscape' are found to comply with development WEDGs (2006) in terms of its siting and design and 4-times-tipheight set-back distance from residential receptors, within a sparsely populated marginal upland on the foothills of the Slieve Callan Uplands.

One person's "*sparsely populated marginal upland on the foothills of the Slieve Callan Uplands*" is a community of people and families to others. A community which has played its part in development of this Country and maintained the environment in a pristine condition. Any identified impacts on the environment has been as a result of National Policy as well established by impacts on water quality due to forestry. This Coolglass decision and the 1.2. Climate Action and Low Carbon Development (Amendment) Act 2015 as amended is just another "policy" being enforced on local rural communities. Asbestos was considered a wonder material in construction "policy" when first implemented. Unless all relevant consideration are properly assessed on a level playing field development such as this in locations such as this could have catastrophic impacts on individuals and communities in the future. Again, through no fault of the Commission, the local community or local residents have no ability to challenge in a fair and meaningful way the cacophony of so called "expert reports" in these applications. Even if an individual or community had the resources and time required to commission meaningful

submissions in opposition actually getting an "expert" not conflicted with connection to renewable energy developers next to impossible. You don't need to be an expert to understand the impacts from these development. There are copious examples of the impacts from other such established developments in this County. Communities do talk to one another and flag the issues to one another. Local residents do not object to these development simply for the sake of it. They object because of past experience of their friends and neighbours. A well-established fact is that there is no follow up compliance with conditions of planning permission. This is also a fundamental issue with this application. The developer of the adjacent windfarm Cahermurphy 1 (East) ignored conditions in its planning permissions which are on-going to such an extent that it has not yet been fully commissioned. The Directors of that developer are a partner in this development proposal albeit their new partners here may not be fully aware of their on-going planning issues in the previous development. Furthermore, the parallel grid connection application should be properly informed by the ESB in respect of the current grid connection in Cahermurphy 1 (East). That is a material matter in respect of this application and associated GCR application.

Overall, the LVIA in Ch 14: Landscape and Visual determined that the Proposed Project is an appropriately designed development and suitably aligned with the WEDGs (2006) and Draft WEDGs (2019), sited in a landscape envisioned for wind energy development. The site is located within a zoning designated as a 'Strategic Area' and 'Acceptable in Principle' for wind energy development in Volume 6: Clare Wind Energy Strategy (CWES) of the CCDP with no potential significant effects on protected landscape and visual sensitivities in the LVIA Study Area.

This conclusion should be viewed in the context of a recent refusal of permission 26/9 for a single home embedded in the side of a hill with minimal, if any, visual impact on an adjacent castle. I that regard the applicant, living in Kilrush and commuting to work in Ennistymon and his farm in Doolin, was refused permission on his 44 acre farm. What is this individual, or other rural communities, supposed to think when he commutes past this abomination twice daily?

5. Carbon Budget

There should be a holistic carbon budget provided for this entire proposal.

6. Conclusion

In the first instance it is submitted that this application is invalid for the reasons stated above.

Secondly it is premature in advance of statutory wind guidelines and RED III mapping.

The in-combination or cumulative assessments associated with this application do not provide the required information to the decision maker to carry out comprehensive EIA and AA assessments as required.

I respectfully request the commission to refuse this application for the above reasons.

Michael Duffy