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AN BORD PLEANÁLA

24 JAN 2020

Type: \_\_\_\_\_

Time: 14:40 By: hand

Our Ref  
NDU/JHU 428/2

Your Ref  
Ref Nos 602, 698, 699, 704

24 January 2020

Dear Sirs

**Submission on the Request for Further Information Response in relation to the N6 Galway City Ring Road Motorway Scheme 2018 by Owners / Occupiers of Land Referred to in the Scheme**

**Our Clients: Clada Group Limited, Clada Soft Drinks Limited and Clada Mineral Water Limited**

We refer to the Notice published on 5 December 2019 in relation to the N6 Galway City Ring Road Motorway Scheme 2018 (the "**Motorway Scheme**").

We also refer to notices dated 22 October 2018 (Ref Nos 602, 698, 699, 704) (the "**Notices**") served on our clients, Clada Group Limited, Clada Soft Drinks Limited and Clada Mineral Water Limited (together, "**Clada**" or "**Client**") which notified Clada of Galway County Council's (the "**Council**") intention to submit to An Bord Pleanála (the "**Board**") for approval under section 47 of the Roads Act 1993.

Lands owned and occupied by Clada are affected by the Motorway Scheme.

## 1 Overview of Submission

On behalf of Clada, we wish to make this submission in response to the Request for Further Information Response (the "**RFI Response**").

The information provided by the RFI Response does not address the issues set out in our previous submission dated 20 December 2018 (the "**Previous Submission**"). There remains no assessment of the impact of the proposed Motorway Scheme which will permanently disable both our client's production wells, on our client's water production business and also on related integrated businesses.

The negative impact on our client's business, as detailed in our Previous Submission, has not been adequately considered, assessed or addressed. At no stage in the consideration of alternatives nor in

Managing Partner: Michael Jackson - Chairman: Tim Scanlon - Partners: Helen Kelly, Sharon Daly, Ruth Hunter, Tony O'Grady, Paraic Madigan, Tara Doyle, Anne-Marie Bohan, Patrick Spicer, Turlough Galvin, Patrick Molloy, George Brady, Robert O'Shea, Joseph Beaslet, Dualta Counihan, Deirdre Dunne, Fergus Bolster, Christian Donagh, Bryan Dunne, Shane Hogan, Nicola Dunleavy, Julie Murphy-O'Connor, Mark O'Sullivan, Brian Doran, John Gill, Joe Duffy, Pat English, Shay Lydon, Aidan Fahy, Niamh Counihan, Gerry Thornton, Liam Collins, Darren Maher, Michael Byrne, Philip Lovegrove, Rebecca Ryan, Catherine O'Meara, Elizabeth Grace, Deirdre Cummins, Alan Keating, Peter McKeever, Alma Campion, Brendan Colgan, Garret Farrelly, Rhona Henry, April McClements, Gráinne Dever, Oisín McCleanaghan, Rory McPhillips, Niall Pelly, Michelle Ridge, Sally-Anne Stone, Matthew Broadstock, Emma Doherty, Leonie Dunne, Stuart Kennedy, Brian McCloskey, Madeline McDonnell, Cíaire McLoughlin, Barry O'Connor, Donal O'Donovan, Karen Reynolds, Kevin Smith, Claran Healy, Chris Bollard, Deirdre Kiboy, Michael Hastings, Maria Kennedy, Barry McGettrick, Kate McKenna, Donal O'Byrne, David O'Mahony, Russell Rochford, Liam Flynn, Gráinne Callanan, Geraldine Carr, Brian Dohhan, Richard Kelly, Niamh Maher, Yvonne McWeeney, Mairéad Ní Ghabháin, Pádraic Roche, Yahan Tshurakian, Kiaran Trant, Deirdre Crowley, Philip Tully, David Jones, Kimberley Masuda, Susanne McMenamin, David Fitzgibbon. - Tax Principals: Greg Lockhart, Catherine Galvin, Anne Harvey. - Tax Department Chair: John Ryan. - General Counsel: Dermot Powell.  
Of Counsel: Chris Quinn, Liam Ouirke.

the assessment of Material Assets by the developer was the permanent loss of our client's production wells taken into account. The consideration of alternatives detailed in the Environmental Impact Assessment Report (the "EIAR") and the RFI Response is wholly deficient in this and other respects. The consideration of alternatives described does not meet the requirements of the revised EIA Directive 2014/52/EU, or the requirements of section 50 of the Roads Act 1993 (as amended).

The RFI Response does not address, and the EIAR is seriously deficient in, describing and assessing only part of what is, it is readily apparent, a wider project. As set out at section 3.1.1 of the Route Selection Report dated March 2016 (the "Route Selection Report") which formed part of the RFI Response, it is stated that the "Galway Transport Strategy ("GTS") builds on previous transport studies and sets out integrated transport proposal which will provide Galway City and its environs with a clear implementation framework over the next 20 years". The Ring Road is "part of this work" to address the very serious transport issues in Galway City. In circumstances where the other measures which form part of this wider project are barely described it is impossible for the Board to carry out an adequate environmental assessment of the project.

Finally, although barely referenced within the EIAR and only referenced once in the RFI Response at 4.6.3 of the Route Selection Report Executive Summary<sup>1</sup>, the developer is seeking to compulsorily acquire our client's lands with the effect, as detailed in our Previous Submission, of permanently decommissioning our Client's production wells. The loss of this natural resource will not be capable of being reinstated elsewhere. There is no information within the EIAR, nor within the RFI Response nor elsewhere which would enable the Board to be satisfied that this very significant interference with our client's constitutional property rights is justified.

Thus all of the submissions made in our Previous Submission remain valid as further set out below, including those in the MKO submission at Schedule 2 of the Previous Submission (the "MKO Submission"). It is disappointing that the serious effects on the business have not been addressed.

In circumstances where it remains the case that the impact on our client's interests have not been adequately described or assessed, and appear not to have been considered properly as part of the consideration of alternatives, it is submitted that there is no basis upon which the Board could be satisfied that the acquisition of our client's lands is necessitated by the exigencies of the common good.

## 2 Alternatives

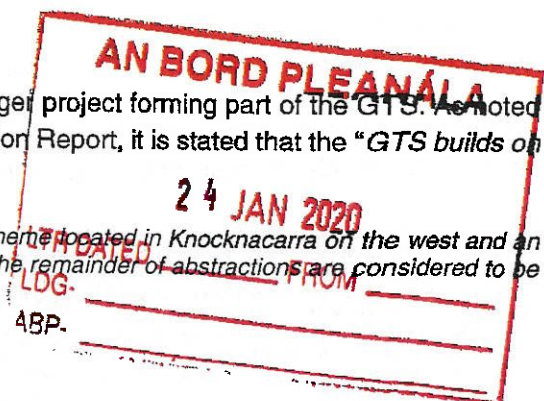
The Route Selection Report does not meet the requirements of the EIA Directive or section 50 of the Roads Act 1993 (as amended).

We note in particular, that there is no comparison of environmental effects and that the requirements of *Case C-323-17, Holohan v An Bord Pleanála*, as set out in our Previous Submission, have still not been complied with, in that rejected alternatives, such as 'Do-Something Public Transport' and 'Lough Corrib Route Options', were not cumulatively assessed.

## 3 Project Splitting

The proposed Ring Road development is but part of a larger project forming part of the GTS. As noted above, and as set out at section 3.1.1 of the Route Selection Report, it is stated that the "GTS builds on

<sup>1</sup> "With the exception of two key abstractions, a group water scheme located in Knocknacarra on the west and an industrial supply well for a commercial property on the east, the remainder of abstractions are considered to be individual agricultural or domestic use."



previous transport studies and sets out integrated transport proposal which will provide Galway City and its environs with a clear implementation framework over the next 20 years". The Ring Road is but "part of this work" to address the very serious transport issues in Galway City.

Notwithstanding the inter-dependence of the elements of this wider project, it remains the case that in the RFI Response, the other elements are not described or assessed thus rendering it impossible for the Board to complete an environmental impact assessment.

#### 4 Temporary Impact – alternative or strengthened route

The developer has not addressed our client's concerns in relation to the impact of the construction phase on our client's premises. As set out in the MKO Submission, the primary access to our client's premises which accommodates HGV access will be severely restricted during the construction of the road. This will only leave the secondary vehicular access which, in its current condition, is not able to accommodate HGVs and will require significant upgrading and widening in order to do so. We note that there have been no proposals put forward by the developer in relation to this concern.

#### 5 Compulsory Acquisition

The developer has not, and has not sought to justify, the interference with our client's property rights which the Motorway Scheme will occasion. The level of impact has not been adequately described or considered and at no time when considering the alternatives available was the profound negative impact on our client's property rights properly taken into consideration.

We note in particular that the RFI Response addresses neither the material impact on our client nor our client's dependence on both wells which will be obliterated as part of the Motorway Scheme, and for which no replacement is available.

#### Conclusion

In circumstances where the assessment of alternatives has the deficiencies outlined above and as further identified in our Previous Submission and, in particular, where the assessment has failed to have adequate regard to the impact on our client's business when comparing alternatives (insofar as the developer did consider alternatives at all), it is submitted that the Board cannot be satisfied that the acquisition of our client's lands is necessary, justified or proportionate having regard to the ends sought to be achieved.

We look forward to confirmation of receipt of this submission.

Yours faithfully



MATHESON

