Submission in respect of ABP-320095-24 - Reserve Gas-Fired Generator

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Applicant: Javah Energy Holdings Limited / Coolpowra Flex Gen Limited / Lumcloon Energy Limited

Concurrent appeal and SID application: ABP-320916-24 (PA ref 24/60845) Significant Further Information — LDES & Synchronous Condenser and GIS substation, HV cables & electric plant (s.182A) — ABP-320094

Development: Co-located energy complex — OCGT gas generation, LDES/BESS (224 enclosures), Synchronous Condenser, RGFG, AGI and GIS substation

Introduction

This submission is made in response to the proposed development at Coolpowra/Coolpora, County Galway, comprising three open-cycle gas turbines (OCGTs), a 224-container Battery Energy Storage System (BESS), a Reserve Gas-Fired Generator (RGFG), an Above Ground Installation (AGI) and a GIS substation, under planning references ABP-320094, ABP-320095 and Galway County Council file 2460845.

The submission is structured as a set of discrete, independently sufficient grounds of objection. Each ground is intended to stand alone: An Coimisiún Pleanála is asked to treat each as a separate basis on which the application is, at minimum, inadequate to support a grant of permission without substantive further information, and in several instances as a basis for refusal.

The grounds are summarised below and developed later in this document..

1. **Inaccurate, incomplete and inconsistent project definition.** The application materials do not supply a single, accurate and consistent definition of the project.
2. **Impermissible project splitting (salami-slicing).** The applicant has conceded operational interdependence between the BESS, GIS substation and RGFG, engaging the EU-law prohibition on project splitting and barring determination of any component in isolation.
3. **Misstatement of project purpose.** The stated purpose in the EIAR (security of supply / renewables integration) is contradicted by the applicant's contemporaneous CRU submission, which states the purpose is to support the data-centre industry.
4. **Incompatible operating profile.** The EIAR's ~1,500 hours/year peaking-plant assumption is irreconcilable with a data-centre-support commercial purpose implying a high capacity factor, undermining the entire assessment baseline.
5. **Climate / carbon-budget non-compliance.** The EIAR measures emissions against the economy-wide carbon budget rather than the electricity-sector ceiling, contains an unreconciled threefold internal inconsistency, and cannot support the s.15 duty.
6. **Co-location / major-accident hazard.** Co-location of BESS, RGFG, AGI and GIS without an independent fire-safety expert opinion is inconsistent with Seveso III and the EIA Directive.
7. **QRA / FN-curve methodology.** The quantitative risk assessment does not demonstrate ALARP, understates societal aversion and omits cumulative/domino effects.
8. **Fisheries value of the Treananearla Stream.** The applicant's 'no potential fisheries value' characterisation is contradicted by State-commissioned peer-reviewed research and is legally insufficient under the WFD non-deterioration obligation.
9. **Water abstraction and hydrology.** Even on the air-cooled configuration, operational abstraction exceeds EPA registration thresholds by over 100×; key figures remain undisclosed in the EIAR. (Open questions to resolve.)
10. **Inadequacy of the Ground Investigation Report.** The GI report is preliminary, explicitly disclaims design status, and is inadequate as the geotechnical/hydrogeological basis for a development of this scale and risk profile.
11. **Climate Action law.** Any decision comes in the aftermath of the Coolglass Supreme Court judgement
12. **Project description contradictions:** The Fire Risk Assessment (FRA) supplied contradicts itself, the project described and the EIAR.
13. **The Fire Risk Management Plan (FRMP):** None has been provided to the satisfaction of the Further Information request and in what has been provided instead, the applicant has appointed itself as the domain expert.

14. **Failure to assess reasonable alternatives:** The FI specifically mentions alternative locations but the applicant has dismissed this and focused on alternative variations of the same project
15. **Traffic and N65 site access:** The project is at variance with planning history, MInisterial guidelines as confirmed by TII and is procedurally defective.

This submission concerns the appeal of the Long Duration Energy Storage (LDES) facility and Synchronous Condenser (planning authority ref. 24/60845; appeal ref. ABP-320916-24). That application is one of three concurrent, co-located and functionally connected applications on the same site: the LDES/Synchronous Condenser (this appeal); the Reserve Gas-Fired Generator (a Strategic Infrastructure Development under s.37E); and the GIS substation, HV cables and electric plant (a Strategic Infrastructure Development under s.182A) — ACP references ABP-320094 and ABP-320095. The LDES facility comprises 168 battery enclosures and 56 medium-voltage power-station enclosures: the 224-container BESS referred to throughout this submission.

The grounds below address the integrated development of which this application forms part. These grounds are not speculative third-party objections. They track concerns already placed on the record by the two competent authorities that have examined this development.

First, Galway County Council **refused** permission for this element of the development on 30 August 2024 (ref. 24/60845) for three reasons: (1) traffic hazard and the unsuitability of the local road network and proposed site access; (2) the risk of adverse effects on the integrity of the Lough Derg North-East Shore SAC and Lough Derg (Shannon) SPA, the authority being unable to rule out such effects; and (3) prematurity, the development being designed to complement and support the separately-consented Reserve Gas-Fired Generator and GIS substation.

Second, An Coimisiún Pleanála's own Further Information request of 9 January 2026 raises, in its own words, the same matters this submission develops in evidence — among them the adequacy of the EIA and its treatment of cumulative effects and major-accident risk, the functional interdependence of the co-located projects, the insufficiency of the foundation and ground-investigation information, the absence of fisheries evidence for the Treananearla Stream, fire safety and firewater supply, and Appropriate Assessment in respect of the Lough Derg European Sites and Barroughter Bog SAC.

Grounds

1. Inaccurate, incomplete, inconsistent project definition

An Coimisiún Pleanála’s assessment and ultimately its planning judgement is contingent on the correct identification of the project being assessed. The application materials do not supply a single, accurate and consistent definition of the project. They define it inconsistently as to **scope** (an integrated generation-storage-grid facility presented as three severable applications) and as to **purpose** (security of supply and renewables integration in the EIAR; support of the data centre industry in the parallel regulatory record). A competent authority that assesses an inaccurately defined project assesses the wrong thing. Any consent that follows is vitiated at the root — not on the merits of any single technical chapter, but because the premise on which all chapters rest is unsound.

(a) Scope. Three applications — ABP-320095 (OCGT/RGFG), ABP-320094 (GIS substation) and ABP-320916-24 / GCC ref. 24/60845 (BESS) — describe what is in function one integrated facility: dispatchable gas generation, battery storage and the grid infrastructure that connects them, on the same lands, under common beneficial ownership. The applicant's own materials concede the interdependence: the BESS is presented as designed to complement the OCGT and GIS, a characterisation Galway County Council itself adopted in refusing the BESS (refusal reason 3, prematurity, 30 August 2024). The components are not independently viable propositions assessed coincidentally in parallel; they are one project disaggregated across three consents.

(b) Purpose. The EIAR states the project's purpose as security of supply and the integration of renewable generation. The CRU/202504 Lumcloon Energy response states the purpose as supporting the data centre industry. The grant of permission on 2 June 2026 to Red Admiral DC Ltd — a company within the same Havajah/Javah Holdings structure — corroborates the second characterisation as the

operative business model. A project cannot be two different things in two regulatory forums. The decision-maker is entitled to, and the public is entitled to scrutinise, one accurate statement of what the development is *for*, because purpose drives the assessment of need, alternatives and cumulative effect.

(c) Consequence. Because the project is mis-scoped and mis-described:

- the **cumulative-effects baseline** is understated, each application treating the others as part of the receiving environment rather than as part of the project;
- the **alternatives assessment** is conducted against the wrong project (Annex IV(2));
- the **Appropriate Assessment screening** screens the wrong plan/project under Article 6(3) of the Habitats Directive; and
- the **climate assessment** is measured against the wrong baseline and the wrong end-use.

None of these downstream assessments can be cured in isolation while the project definition remains defective.

EIA Directive 2011/92/EU (as amended by Directive 2014/52/EU). The Directive's entire architecture presupposes an accurately defined project: it requires that projects likely to have significant effects on the environment be made subject to assessment prior to authorisation. Article 1(2)(a) defines "project"; Article 2(1) imposes the assessment obligation; Article 3 fixes the factors to be assessed; and Article 5 with Annex IV requires an environmental impact assessment report built on a complete project description. A defective project description disables each of these in turn[1].

Planning and Development Act 2000 (as amended) and the **Planning and Development Regulations 2001 (SI 600/2001)** — the domestic EIA and AA machinery, including the s.172 EIA obligation, operate only on the project as properly identified. ACP's jurisdiction is engaged in respect of the development correctly defined; a determination founded on a defective definition is *ultra vires* and unreasonable.

Segmentation / whole-project jurisprudence. The prohibition on disaggregating a project to dilute or evade assessment is settled:

- C-392/96 Commission v Ireland — thresholds cannot be circumvented by splitting;
- C-2/07 Abraham — the project must be assessed as a whole, including its purpose and cumulative effect;
- C-205/08 and C-244/12 Salzburger Flughafen — cumulative and cross-boundary effects of the whole project;
- C-142/07 Ecologistas en Acción — splitting a project to avoid environmental assessment is impermissible[2].

O'Grianna v An Bord Pleanála [2014] IEHC 632 is directly in point: the High Court held that a windfarm and its necessary grid connection constitute a single project for EIA purposes, that the cumulative effect of the entire project had to be assessed, and quashed the Board's decision where that had not been done[3]. The applicant's own documents concede interdependence in this case.

As per **Connelly v An Bord Pleanála [2018] IESC 31**, the Board must give adequate reasons for its decision. That obligation presupposes that it correctly understood and identified what it was assessing. A decision-maker cannot give adequate reasons for assessing a project it has not accurately defined.

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[1] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32011L0092

[2] https://www.casemine.com/commentary/uk/scope-of-environmental-impact-assessments-in-masterplanned-developments:-fitzpatrick-v.-an-bord-plean%C3%A1la/view

[3] https://www.opr.ie/wp-content/uploads/2022/10/Appendix-2-Breakdown-of-JRs.pdf

In the absence of a single project assessment with corrected statutory documentation ACP must refuse permission.

2. Impermissible Project Splitting (Salami-Slicing)

ACP Further Information (9 Jan 2026): items 1b.i (whether the LDES & Synchronous Condenser 'could/would operate independently' from Projects 1 and 3 or must operate with them), 1a.i (cumulative impacts from the other development on this site) and 1b.iii (project-category interpretation under the 2024 EIA guidance)

Galway County Council refusal (30 Aug 2024): Reason 3: prematurity, the development being designed 'to complement and support' the RGFG and GIS pending their SID determinations.

In its Further Information response the applicant has expressly conceded operational interdependence between the three principal infrastructure components — the Battery Energy Storage System (ABP file 2460845), the Gas Insulated Switchgear substation (ABP-320094) and the Reserve/Regional Gas-Fired Generation plant (ABP-320095). Once interdependence is conceded, the components form a single project for the purposes of EU environmental assessment law, and the prohibition on dividing a project into parts so as to avoid or dilute assessment is engaged.

The prohibition on project splitting is well established in the jurisprudence of the Court of Justice of the European Union, which has repeatedly held that the objective of the EIA Directive cannot be circumvented by the splitting of projects, and that the cumulative effect of projects must be considered to avoid the assessment obligation being evaded in its entirety:

- **Case C-392/96** Commission v Ireland — cumulative effects and thresholds must not be used to exempt projects from assessment;
- **Case C-205/08** Umweltanwalt von Kärnten;
- **Case C-244/12** Salzburger Flughafen;
- **Case C-2/07** Abraham v Région Wallonne — the whole of a project, including works functionally connected to it, must be assessed.

In the Irish courts the principle is settled by *O'Grianna v An Bord Pleanála* [2014] IEHC 632, in which Peart J. held that the grid connection necessary to render a wind farm operational could not be severed from the assessment of the development itself, and by *Sweetman v An Bord Pleanála* [2021] IEHC 16.

Galway County Council has already refused permission for this element of the development (ref. 24/60845, 30 August 2024), its third reason for refusal being that the development, by reason of its design to complement and support the Reserve Gas-Fired Generator and the GIS substation, would be premature pending An Coimisiún Pleanála's determination of those SID applications. The planning authority has therefore already found, on the record, that the components are functionally interlinked — the precise interdependence the applicant has since conceded. An Coimisiún Pleanála's own Further Information request reinforces the point, asking the applicant to clarify whether the LDES and Synchronous Condenser could or would operate independently from the other projects, or must operate with them (FI item 1b.i). Both authorities have asked the very question this ground answers.

Given that the applicant has conceded operational interdependence, ACP must treat the BESS, GIS substation and RGFG as a single project for assessment purposes or else refuse permission.

3. Misstatement of Project Purpose

ACP Further Information (9 Jan 2026): item 1a.iii (reasonable alternatives and alternative locations — purpose drives the alternatives assessment) and the Article 94 / Schedule 6 EIA-adequacy concerns at item 1a.

There is a direct and material contradiction between two filings to statutory bodies by the applicant. The EIAR (Volume 1, Section 1.1) describes the project's purpose as increasing security of supply and supporting the integration of renewables. The applicant's response to CRU consultation CRU/202504 (dated 22 May 2026) expressly states that the purpose of the project is to support the data-centre industry through proximate generation.

These two statements of purpose are not complementary; they describe different projects with different operating logics, different demand drivers and different environmental consequences. A peaking plant providing system security and balancing intermittent renewables operates episodically. A plant whose commercial rationale is to supply a continuous, high-load data-centre demand operates very differently. The purpose stated to the planning authority determines the project description, the alternatives considered, the operating assumptions, and ultimately the environmental assessment. A purpose stated to the economic regulator that contradicts it undermines the integrity of the EIAR as submitted.

Under section 172 of the Planning and Development Act 2000 (as amended) and the EIA Directive (2011/92/EU as amended), the EIAR must accurately describe the project, including its objectives and main characteristics. Where the applicant's own contemporaneous regulatory disclosure contradicts the project description on which the EIA is founded, the assessment cannot be regarded as adequate, and the public's right to participate on the basis of accurate information is compromised.

The applicant, via a sister company then named Cloudy H2 Limited, participated in the Single Electricity Market as a prospective power generation applicant[4] for this site at Coolpowra/Gortlusky. Cloudy H2 Limited filed a name change to Cloudy DS LImited (Company Reg. No. 701308) with the CRO in 2025[5]. Cloudy DS's largest shareholder is Havajah Energy Holdings Limited (Company Reg. No. 741706), which also controls Coolpowra Flex Gen Limited (Company Reg. No. 706498), the applicant company. Cloudy is a data centre company[6].

The applicant has previously developed similar energy infrastructure at Castlelost, Co. Westmeath and has since secured planning permission for an adjoining data centre (as Red Admiral DC).

The applicant should be required to clarify these apparent conflicts on the planning record in order for the EIA to be assessed completely for the intended development. Where future data centre development relies on this proposed development, all must be assessed for cumulative environmental impact.

4. Operating Hours

ACP Further Information (9 Jan 2026): items 1a.i (a clear description of the likely significant effects for each environmental factor) and 1a.vi (estimates, by type and quantity, of expected residues and emissions) — both of which are functions of the operating profile.

[4] https://www.sem-o.com/sites/semo/files/documents/general-publications/Appendix-A-Final-Qualification-Decisions-2027-28-T-4.xlsx

[5] https://core.cro.ie/e-commerce/company/4729389

[6] https://www.mk.co.kr/en/it/12061136

A consequence of Ground 2 involves a significant change to the operating profile of this industrial facility. The EIAR assesses the development on the basis of a peaking-plant operating assumption of approximately 1,500 hours per year. A commercial purpose of supporting continuous data-centre demand implies an operating profile far closer to baseload — on the order of an 85% capacity factor. These two profiles are irreconcilable, and the entire environmental assessment is calibrated to the lower of the two.

Emissions, water demand, noise exposure, traffic, and the consequence and risk modelling in the EIAR are all functions of how often and how hard the plant runs. An assessment built on ~1,500 hours per year materially understates every operational impact if the plant is in fact intended to run at a high capacity factor to serve data-centre load. The operating profile is therefore not a peripheral assumption; it is the foundation of the assessment, and an unreliable foundation invalidates the conclusions built upon it.

The applicant should be required to justify the intended operating profile consistent with its intended commercial purpose and all operational aspects (climate, water, noise, air quality, risk) be run against the worst-case scenario profile the plant is capable of. The EIA's reliance on a ~1,500-hour assumption is inadequate, if unsupported by an enforceable condition.

5. Climate and Carbon-Budget Compliance

ACP Further Information (9 Jan 2026): items 1a.i (likely significant effects) and 1a.vi (estimates by type and quantity of expected air emissions).

The EIAR's climate compliance case fails on three independent grounds: it measures the project against the wrong carbon budget; it contains an unreconciled internal inconsistency of a factor of three; and, on any reading, it cannot support the statutory duty imposed on An Coimisiún Pleanála. The error is not marginal — the EIAR understates the project's proportionate climate impact by an order of magnitude.

5.1 The wrong benchmark — a tenfold understatement

The EIAR assesses the project's emissions against the economy-wide carbon budget for the second budgeting period rather than against the electricity-sector emissions ceiling. The economy-wide second carbon budget (2026–2030) is 200 $MtCO_2eq$. The electricity sector's ceiling for that same period, however, is 20 $MtCO_2eq$ — half of the sector's 40 $MtCO_2eq$ ceiling for the first period (2021–2025). The development is a power-generation project; its impact falls to be measured against the sector to which it belongs. Measuring it against the all-sector budget inflates the denominator tenfold and correspondingly deflates the project's apparent share by the same factor.

The consequence of this is stark. Taking the applicant's own operational emissions figure from EIAR Table 15.2 (≈0.616 $MtCO_2eq$/yr, i.e. ≈3.08 Mt over the five-year period):

Denominator applied	Budget (2026–2030)	Plant's 5-yr emissions	Plant's share of total sectoral emissions
EIAR framing using	200 $MtCO_2eq$	≈3.08 Mt	≈ 1.5%

economy-wide budget			
Correct electricity sectoral ceiling	20 $MtCO_2eq$	≈3.08 Mt	≈15.4%

On the applicant's own figure, a single plant consumes roughly 15% of the entire electricity sector's five-year carbon budget — not the sub-2% the EIAR implies. This % will be even greater post 2030 when sectoral ceilings are further reduced.

The percentage offered by the applicant in the EIAR is wrong by a factor of ten because the budget against which it is measured is wrong by a factor of ten.

5.2 The unreconciled internal inconsistency

The EIAR cannot reconcile its own figures. Table 15.2 states annual operational emissions of approximately 0.616 $MtCO_2eq/yr$ (586,400 + 30,000 tCO_2eq). Table 15.3, on the following page, reports approximately 1.85 $MtCO_2eq/yr$ — three times larger — with no derivation, footnote or explanation. Whichever figure is correct, the compliance case collapses: on Table 15.2 the plant takes ≈15.4% of the sectoral ceiling; on Table 15.3, ≈46.3%. An emissions estimate that is internally contradictory by a factor of three cannot satisfy the requirement for an estimate "by type and quantity" of expected emissions.

Below table 15.3 the EIAR states:

"*When considered in isolation as a stand alone Reserve Power Plant, the proposed development would have a major adverse impact on climate.*"

5.3 The operating-profile sensitivity

These figures rest on the EIAR's peaking-plant assumption of ~1,500 operating hours per year. As set out at Ground 3, that assumption is irreconcilable with the data-centre-support commercial purpose disclosed in the applicant's CRU submission, which implies an operating profile closer to an 85% capacity factor. At that utilisation the combustion emissions scale roughly five-fold, which would see this single plant consume the substantial majority of the entire electricity-sector ceiling for 2026–2030. The lower the operating assumption the EIAR relies upon, the larger the gap between the assessed and the realistic impact.

5.4 There is no headroom to absorb this

The sector cannot accommodate the plant within the ceiling because it is already projected to exceed it. The CRU's own modelling projects electricity-sector emissions of 28.2 Mt CO_2eq for 2026–2030, beyond the 20 Mt ceiling set for that period, and the EPA's 2026 projections show almost all sectors on a trajectory to exceed their national sectoral emissions ceilings for 2030. A large new gas unit is being proposed into a sector that is already forecast to breach its statutory ceiling[7].

Nor can the applicant rely on the economy-wide unallocated reserve. While 5.25 $MtCO_2eq$ of annual reductions remain unallocated for the second carbon budget period, to be allocated following a mid-term review, that reserve is economy-wide, is a *reduction* obligation rather than emissions headroom, and is

[7] https://www.epa.ie/news-releases/news-releases-2025/epa-projections-show-ireland-off-track-for-2030-climate-targets.php

expressly reserved to a future allocation process. It cannot lawfully be pre-spent, in advance of that process, on a single generation project[8].

5.5 Legal consequences

Section 15 of the Climate Action and Low Carbon Development (Amendment) Act 2021 requires An Coimisiún Pleanála, in the performance of its functions, to act in a manner consistent with the State's national climate objective and with the most recent approved carbon budget and sectoral emissions ceiling. An Coimisiún Pleanála cannot lawfully discharge that duty by accepting an emissions calculation that (i) is measured against the wrong budget, understating the proportionate impact tenfold; (ii) is internally contradictory by a factor of three; and (iii) rests on an operating assumption contradicted by the applicant's own contemporaneous regulatory disclosure.

Separately, Schedule 6 of the Planning and Development Regulations 2001 (as amended), transposing Annex IV of Directive 2011/92/EU, requires an estimate, by type and quantity, of the emissions expected from the operation of the development. An estimate that contradicts itself threefold does not meet that requirement, and the EIA is to that extent inadequate.

The materiality of the carbon-budget framework to a planning determination of this kind is supported by the Supreme Court's decision in *Coolglass* [2026] IESC 5.

Given the inconsistencies in the EIAR figures and the fact that the applicant used the wrong benchmark in the first place, it is imperative that discrepancies are addressed and the project's true climate impact is reassessed against the electricity-sector ceiling of 20 $MtCO_2eq$ for 2026–2030[9], not the economy-wide budget. This assessment should consider the full operating profile as per ground 3 above.

6. Co-location and Major Accident Hazard

ACP Further Information (9 Jan 2026): items 1a.v (vulnerability to risks of major accidents/disasters — explosion at the gas generator, fire at the BESS), 3a (Fire Risk Management Plan), 3a.iv and 3b.ii (FRMP and ERP to be prepared by a suitably qualified expert), 3c.i (NFCC grid-scale BESS guidance — spacing, prevailing wind) and 3c.ii (battery chemistry and design).

Galway County Council refusal (30 Aug 2024): Reason 3: the development's design to complement and support the co-located RGFG and GIS.

The development co-locates a 224-container BESS, a Reserve Gas-Fired Generator, an Above Ground Installation (gas) and a GIS substation on a single site. Co-location of these hazard sources raises distinct major-accident and fire-safety questions that the application does not adequately address.

The relevant framework comprises Article 9 of the Seveso III Directive (control of major-accident hazards and land-use planning), Annex IV of the EIA Directive (which requires assessment of the risks of major accidents relevant to the project), and the land-use planning principles articulated by the CJEU in *Mücksch* (Case C-53/10), which requires planning authorities to take account of the need to maintain appropriate distances between hazardous establishments and sensitive uses. The interdependence of

[8] https://www.gov.ie/en/department-of-the-taoiseach/press-releases/government-announces-sectoral-emissions-ceilings-setting-ireland-on-a-pathway-to-turn-the-tide-on-climate-change/

[9] https://cruie-live-96ca64acab2247eca8a850a7e54b-5b34f62.divio-media.com/documents/CRU202356_Energy_Demand_Strategy_Call_for_Evidence_Paper.pdf

the co-located components is also relevant to the project-splitting analysis at Ground 1 and to *O'Grianna v An Bord Pleanála* [2014] IEHC 632.

The empirical record on BESS and co-located energy infrastructure fires is material to the assessment of residual risk and the adequacy of separation distances and containment. Relevant incidents include Buncefield (2005), the Carnegie Road, Liverpool BESS fire (2020), the Moss Landing battery facility fire (January 2025) and East Tilbury (2025). These are not cited as proof that this facility will fail, but as evidence that the hazard is real, that fire events at such facilities are difficult to suppress, and that the consequence assessment must engage with them rather than treat them as remote.

An Coimisiún Pleanála has identified this as a live concern. Its Further Information request expressly requires a Fire Risk Management Plan and an Emergency Response Plan prepared by a suitably qualified technical expert, addressing the proximity of the RGFG and Above-ground Gas Installation, the UK NFCC grid-scale BESS guidance (including minimum spacing and prevailing wind), the battery chemistry and design, and permanent firewater provision of no less than 1,900 litres per minute for at least two hours (FI items 3a to 3c).

ACP should now require an independent expert fire-safety opinion addressing the co-located BESS, RGFG, AGI and GIS along with a major-accident hazard and separation-distance assessment consistent with Seveso III Article 9 and Mücksch. The relevant fire authority should be consulted with a substantive response obtained. In the absence of these measures, permission must be refused on safety grounds.

7. Quantitative Risk Assessment and FN-Curve Methodology

ACP Further Information (9 Jan 2026): items 1a.v (vulnerability to risks of major accidents/disasters) and 3a.ii (evaluation of the associated fire risk).

The EIAR addendum (Part 8, Consequence and Major-Accident Assessment) applies the UK Health and Safety Executive's *Reducing Risks, Protecting People* (R2P2, 2001) tolerability framework[10] and a societal-risk (FN-curve) analysis. The three-region structure it adopts — broadly acceptable, tolerable-if-ALARP, and unacceptable — is the orthodox and correct methodology for major-accident risk. The objection is not to the framework but to its application, which is incomplete in four respects, each of which means the assessment does not discharge the duty to assess the development's vulnerability to major accidents.

ALARP is asserted, not demonstrated. The R2P2 framework permits a risk to be accepted in the tolerable region *only* where it has been shown to have been reduced "*as low as reasonably practicable*" which requires a structured demonstration that risk-reduction options were identified and adopted unless their cost was grossly disproportionate to the benefit. The addendum places onsite fatality outcomes in the tolerable region but does not contain that ALARP demonstration. A bare classification of a risk as "tolerable" without the option-by-option ALARP analysis is precisely what R2P2 does not permit; tolerability is a conclusion that must be earned, not assumed.

The societal-risk criterion understates aversion to catastrophic events. The FN-curve methodology exists to capture society's disproportionate concern about single events causing many fatalities. That concern is represented by the slope of the criterion line: a risk-neutral slope (-1) treats one event killing 100 people as equivalent to 100 events each killing one, whereas a risk-averse slope (steeper than -1) reflects the additional societal weight attached to catastrophic outcomes. If the assessment's criterion

[10] https://www.hse.gov.uk/managing/theory/r2p2.htm

line is risk-neutral or insufficiently aversion-weighted, it systematically understates the unacceptability of the low-frequency, high-consequence events that are the entire reason a societal-risk assessment is required for a co-located energy facility.

Domino and cumulative escalation are not modelled. The site co-locates a battery energy storage system, a Reserve Gas-Fired Generator, an Above-Ground Gas Installation and a GIS substation (Ground 5). The dominant major-accident concern is escalation between these sources — a battery thermal-runaway event adjacent to a gas installation, or vice versa. Article 9 of the Seveso III Directive (2012/18/EU) requires the assessment of domino effects between establishments and units. An FN/QRA that assesses each source in isolation, and does not quantify the frequency and consequence of cross-source escalation, omits the principal pathway to a multi-fatality event and therefore understates the very tail of the FN curve on which the tolerability conclusion turns.

Offsite consequence modelling rests on undisclosed assumptions. The offsite fatality estimates depend on inputs such as ignition probability, meteorological conditions, population distribution and vulnerability, and intervention assumptions. These are not transparently stated or subjected to sensitivity analysis. Without that, neither the public nor the planning authorities can test whether the offsite risk results are robust or are an artefact of optimistic input selection.

Legal consequence. Schedule 6 of the Planning and Development Regulations 2001 (as amended), transposing Annex IV of Directive 2011/92/EU, requires a description of the development's vulnerability to risks of major accidents and disasters. The land-use planning obligations under Article 13 of the Seveso III Directive[11], and the requirement to maintain appropriate distances articulated by the CJEU in *Mücksch* (Case C-53/10)[12], require that this be done on a sound quantitative basis. An assessment that does not demonstrate ALARP, applies a societal-risk criterion that understates catastrophic-event aversion, omits domino escalation, and relies on untested offsite assumptions does not meet that standard.

8. Fisheries Value of the Treananearla Stream

ACP Further Information (9 Jan 2026): item 1e: an aquatic survey or fisheries assessment, with methodology and named author, to support the 'no fisheries value' conclusion; justification for the realignment; and IFI consultation, together with 3c.iv.2 (WFD objectives and connectivity to designated European Sites).

Galway County Council refusal (30 Aug 2024): Reason 2: direct hydrological link to the Lough Derg North-East Shore SAC (002241) and Lough Derg (Shannon) SPA (004058); the authority could not be certain the project would not adversely affect their integrity.

In response to the Further Information request concerning the proposed diversion of the Treananearla Stream, the applicant asserts that the watercourse has *“no potential fisheries value.”* That assertion is the evidential foundation on which the diversion is justified. It is incorrect, unsupported by the best available scientific evidence, and contradicted by peer-reviewed State-commissioned research. It cannot lawfully be relied upon by An Coimisiún Pleanála as a basis for granting permission.

8.1 The best available scientific evidence

[11] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012L0018
[12] https://curia.europa.eu/juris/liste.jsf?num=C-53/10

The Treananearla Stream is a direct tributary of the Kilcrow River. The Kilcrow discharges to Lough Derg, a designated salmonid water and one of the most ecologically and economically significant lakes in the State.

The study *Population Structure and Genetic Stock Identification of Brown Trout (Salmo trutta) from Lough Derg*[13] (Magee, Bradley, Hynes, Prodöhl, Delanty, Kelly & O'Grady; Inland Fisheries Ireland / Queen's University Belfast, 2017) is one of the largest genetic stock identification studies of brown trout conducted in Europe, sampling 167 sites and more than 4,300 baseline fish across 2009–2012. It established, on the basis of microsatellite DNA profiling, that the Kilcrow contributes **11% of the adult brown trout stock to Lough Derg** — tied second among approximately 30 populations sampled, behind only the Camcor (13%).

The study expressly records that small rivers and tributaries are also important contributors to lake stock, and that the baseline, although comprehensive, is still incomplete. The fact that the Treananearla itself was not individually sampled does *not* establish absence of value; it establishes absence of investigation. In ecological assessment under EU and Irish law, absence of evidence is not evidence of absence.

Critically, the Kilcrow sampling locations lay downstream of the Treananearla confluence. It follows that the genetic signal attributed to the Kilcrow necessarily incorporates, and depends upon the integrity of, its upstream tributaries — of which the Treananearla is one. Any deterioration of water quality, hydromorphology or habitat in the Treananearla is in principle a deterioration affecting the Kilcrow population that delivers 11% of Lough Derg's adult trout stock.

The applicant's characterisation is (i) factually wrong, being contradicted by the largest genetic stock identification study of brown trout in this jurisdiction; (ii) methodologically inadequate, being unsupported by any cited fisheries survey, electrofishing data or habitat assessment of the receiving system; and (iii) legally insufficient, in that it does not engage with the non-deterioration obligation under Article 4 of the Water Framework Directive as interpreted by the CJEU in *Weser* (Case C-461/13), the assessment obligations under the EIA Directive, or the statutory protection of spawning grounds under s.171 of the Fisheries (Consolidation) Act 1959.

Stream diversion is exceptional, not routine. The starting presumption — consistent with the precautionary principle in Article 191(2) TFEU and applied in *Weser* (C-461/13) and *Sweetman* (C-258/11) — is that watercourses should be preserved in their existing alignment unless a compelling evidenced case is made out. No such case has been made out here.

Both authorities share this concern. Galway County Council refused permission in part on this very basis: its second reason for refusal records a direct hydrological link to the Lough Derg North-East Shore SAC (002241) and Lough Derg (Shannon) SPA (004058) and concludes that, absent satisfactory evidence to the contrary, it could not be certain the development would not adversely affect their integrity. An Coimisiún Pleanálas Further Information request then demands precisely the evidence whose absence founds this ground — an aquatic survey or fisheries assessment, with methodology and named author, to support the 'no fisheries value' conclusion, together with IFI consultation (FI item 1e). The applicant's bare assertion cannot survive either the authority's finding or An Coimisiún Pleanálas own request for evidence.

Based on available scientific evidence, ACP must reject the assertion that the Treananearla Stream has “no potential fisheries value” and require a full hydrological and fisheries connectivity assessment of the Treananearla–Kilcrow–Lough Derg continuum, conducted to IFI standards and incorporating Magee et

13 https://www.fisheriesireland.ie/sites/default/files/migrated/docman/2017/research/Population%20Structure%20and%20Genetic%20Stock%20Derg.pdf

al. In the absence of this and substantive consultation with IFI, the diversion of the stream must not be permitted.

9. Water Abstraction and Hydrology

ACP Further Information (9 Jan 2026): items 1a.vi (water-pollution estimates), 3c.iii (permanent firewater supply — NFCC 1,900 L/min for two hours — and the concern over reliance on a domestic well; consult Uisce Éireann), 3c.iv (revised surface-water drainage strategy; no contamination of surface or ground water), 1d (hydrogeology and water table) and 1e.i (watercourses and drainage).

Galway County Council refusal (30 Aug 2024): Reason 2: concern regarding drainage and surface water and the hydrological link to Lough Derg.

The EIAR specifies air-cooled turbines, which removes the single largest water demand associated with thermal generation but the EIAR does not provide the information needed to determine its water demand at all, and that the demand it does generate has not been assessed against the receiving environment or the available supply. Two distinct water issues arise: the plant's operational abstraction, and the firewater supply for the battery storage system.

9.1 Operational abstraction — a disclosure failure

The authoritative reference on power-station water use, the US National Renewable Energy Laboratory's review of operational water factors (Macknick, Newmark, Heath & Hallett, 2011[14]; peer-reviewed as Macknick et al., *Environ. Res. Lett.* 7 (2012) 045802)[15], establishes that water-use factors show far greater agreement when organised by cooling technology than by fuel type — that is, water demand is determined principally by the cooling and process configuration, not by the fuel. In a conventional plant the largest single consumer of raw water is cooling-tower make-up; an air-cooled, simple-cycle turbine has no steam cycle and therefore avoids that load entirely.

It does not follow that water use is negligible. For an air-cooled open-cycle plant the material water demands are (i) evaporative inlet-air cooling, if fitted; (ii) NOx control by water or steam injection, where water injection in the turbine combustor is a recognised method of suppressing NOx formation, as opposed to dry-low-NOx combustors with selective catalytic reduction; and (iii) compressor-wash water. Each of these varies by an order of magnitude depending on the configuration selected, and each is a design choice the applicant has made but has not disclosed.

The deficiency is therefore one of disclosure, and it is squarely within Schedule 6: the EIAR must provide an estimate, by type and quantity, of water abstracted and consumed, sufficient to permit assessment and to permit abstraction registration. The EIAR does not state the maximum daily abstraction rate, the water source, or the NOx-control and inlet-cooling configuration on which any such rate would depend. Without these, neither An Coimisiún Pleanála nor the public can determine whether the abstraction is significant, whether it requires registration or licensing, or what its effect on the receiving catchment would be.

[14] https://research-hub.nrel.gov/en/publications/operational-water-consumption-and-withdrawal-factors-for-electric-4/

[15] https://www.osti.gov/servlets/purl/1513265

This is not a peripheral omission. Even a modest operational abstraction would exceed the statutory abstraction-registration threshold of 25 m³/day (25,000 litres/day) by a wide margin, requiring registration with the Environmental Protection Agency where drawn from a private source. The applicant cannot demonstrate compliance with, or even engagement with, the abstraction regime while the underlying figure is absent.

9.2 Basis for Demand

Should the applicant, in responding, confirm a water-consuming configuration — water or steam injection for NOx control, or evaporative inlet cooling — the resulting demand becomes material and must be assessed against both the catchment and the available supply. On a benchmarked estimate using the NREL consumption factors and the plant's stated capacity, operational-day demand of the order of several million litres per day is realistic, equivalent on those days to the domestic consumption of tens of thousands of people at the Irish average of 133 litres per person per day[16]. That calculation is provided as an illustration of the scale at stake, contingent on the configuration the applicant discloses; it is not advanced as an established figure, and it must be recomputed on the EIAR's own stated parameters once those are provided.

9.3 Firewater supply

Distinct from process abstraction, the battery storage system requires a permanent firewater supply. An Coimisiún Pleanála's Further Information request records that the NFCC grid-scale BESS guidance provides for no less than 1,900 litres per minute for at least two hours, and expresses significant concern over the likely reliance on a domestic well for that purpose, advising consultation with Uisce Éireann (FI item 3c.iii). A sustained draw of 1,900 L/min for two hours is 228,000 litres per event — itself roughly nine times the daily registration threshold — and the source, storage and replenishment of that volume, together with the containment of contaminated firewater run-off, are not adequately addressed. This is the water issue most directly within the present application and it remains unanswered.

9.4 Catchment, cumulative effect and the Water Framework Directive

The site drains to the Kilcrow/Gortaha sub-catchments within the Lower Shannon system, with the hydrological connectivity to the Lough Derg North-East Shore SAC and Lough Derg (Shannon) SPA that founded the Council's second reason for refusal. Abstraction, process discharge and firewater run-off must be assessed in-combination — with each other, with the co-located components (Ground 1) and with other catchment users including the associated data-centre demand — against the non-deterioration obligation of the Water Framework Directive (Article 4; S.I. 272/2009; *Weser*, C-461/13). No such in-combination water assessment has been carried out.

Given the absence of detail the applicant must:

- be required to state, for EPA registration and assessment purposes, the maximum daily and annual water abstraction, the water source, and the NOx-control and inlet-cooling configuration that determine it;
- Specify the firewater supply, storage, replenishment and contaminated-run-off containment
- Show evidence of a substantive consultation with Uisce Éireann
- Produce an in-combination assessment of abstraction, discharge and firewater against the Water Framework Directive and the Lough Derg European Sites

In the absence of the above, the EIA is inadequate with respect to water.

[16] https://www.water.ie/conservation/home/water-conservation

10. Inadequacy of the Ground Investigation Report

ACP Further Information (9 Jan 2026): item 1d.i (the scale of foundations and structural requirements in EIAR Section 2.5.1.2 is 'considered insufficient for developments of the size and scale proposed'), 1d.ii (comprehensive site investigations to characterise the geological profile, bedrock, overlying soils and water table; earthworks and cut & fill), and the finding that the Section 7.3.4.1 drainage detail is insufficient.

The Ground Investigation Report (*Coolpowra Galway 09-12-24 Rev B*, Ground Investigations Ireland Ltd) does not constitute an adequate geotechnical or hydrogeological basis for a development of this nature, scale and risk profile — three OCGTs, associated balance-of-plant, a GIS substation and a 224-container BESS. The report is preliminary in character, explicitly disclaims design status, contains material gaps, and includes a bedrock formation reference that is geographically inconsistent with the site.

The specific deficiencies are:

- **Dynamic foundation design.** The report provides allowable bearing capacities but does not address the dynamic foundation design required for rotating machinery (OCGTs), for which recognised practice (ACI 351.3R-18, DIN 4024) requires analysis the report does not contain.
- **BESS settlement and containment.** A 224-container battery array is settlement-sensitive and raises containment requirements (NFPA 855, IEC 62933, BRE SD1) that the report does not address.
- **Made ground, dewatering and groundwater.** Dewatering and groundwater characterisation are under-developed for the excavation and foundation regime proposed (EC7 / IS EN 1997; CIRIA C753).
- **Soakaway performance.** Infiltration performance is not adequately demonstrated for the drainage strategy relied upon.
- **Bedrock formation inconsistency.** The report references the Lucan Formation, which is geographically inconsistent with this Galway site. The formation assignment requires verification against the GSI bedrock mapping and against borehole core descriptions, or correction.
- **Self-disclaimed status.** The report states that its recommendations 'should be verified in the design of the proposed buildings, using the full details of the loading conditions' — i.e. the author expressly states the report is not a design document. If it is presented as adequate to demonstrate technical feasibility for OCGT + BESS foundations, that representation conflicts with the report's own terms.

The report is competent as a preliminary ground investigation but is being asked to do work it explicitly disclaims. For a development of this scale, the foundation, drainage, dewatering and excavation regimes are all under-characterised.

The planning commission shares this concern in terms. Its Further Information request states that, notwithstanding Article 23(6) of the Regulations, the scale of the foundations and structural requirements set out in EIAR Section 2.5.1.2 is considered insufficient for developments of the size and scale proposed, and requires comprehensive site investigations to characterise the geological profile, identify the bedrock, and establish the characteristics of the overlying soils and the depth of the water table (FI item 1d). That is the same inadequacy this ground identifies, independently arrived at.

The applicant must be required to provide a design-stage geotechnical assessment to EC7, including dynamic foundation analysis for the OCGTs and settlement/containment analysis for the BESS.

Furthermore, the Lucan Formation reference should be verified against and independent source e.g. GSI mapping and borehole log and the groundwater, dewatering and infiltration characterisation must be completed to recognised standards before permission is considered.

11. Climate Action law

This section sets out the current state of the law under section 15 of the Climate Action and Low Carbon Development Act 2015 (as amended).

In *Coolglass Wind Farm Ltd v An Coimisiún Pleanála* [2026] IESC 5 (4 February 2026) the Supreme Court held that the section 15 duty is an enforceable obligation that goes beyond a mere "have regard to" requirement and is reviewable as to outcome, but that it does not mandate a single result: it allows the decision-maker a range of permissible outcomes and a degree of tolerance in how consistency with the State's climate objectives is achieved. The Court rejected any reading of section 15 as a presumption that climate-positive projects must be granted and climate-negative projects refused.

This submission does not contend that section 15 requires refusal merely because the development generates emissions. The objection at Ground 4 is of a different and more fundamental character: that the EIAR's climate assessment is measured against the wrong budget (the economy-wide budget rather than the electricity-sector ceiling of 20 $MtCO_2eq$ for 2026–2030), understating the project's proportionate impact tenfold, and that it contradicts itself by a factor of three between Tables 15.2 and 15.3.

The reason this survives Coolglass is that the spectrum of permissible outcomes the Court recognised presupposes a decision reached on a rational and adequate evidential basis. The error identified in Coolglass itself was a *failure to engage substantively* with the climate question. A planning decision-maker cannot engage substantively or rationally, and cannot locate its decision anywhere within the permissible spectrum, on inputs that are wrong by an order of magnitude and internally inconsistent. This is the case set out in Part 4 above (Climate and Carbon-Budget Compliance). In simple terms, the carbon emissions maths are completely wrong.

The post-Coolglass decisions that upheld permissions for emitting developments did so because those projects were found, in their system context, to displace more carbon-intensive generation or to supplement renewable energy, and because the developers had addressed the absence of better alternatives. Neither feature is present in this case. The applicant's own submission to the CRU states that the development's purpose is to support the data-centre industry (Ground 2) — that is, to enable new electricity demand, not to displace existing generation — and the Further Information request records that the alternatives and alternative-locations assessment is inadequate (FI item 1a.iii). The very "system context" and "alternatives" considerations that secured compliance elsewhere are, on the applicant's own documents, absent or contradicted here.

The defects at Ground 4 are, in addition to any section 15 point, defects in the adequacy of the environmental impact assessment under Schedule 6 of the Planning and Development Regulations 2001 and Annex IV of Directive 2011/92/EU. Therefore they stand independently of section 15 and would remain operative even if section 15 were, by future legislation, disapplied to this development.

12. Project Description Contradictions

The Fire Risk Assessment at Appendix 17.3 of the EIAR Addendum (January 2026) assesses a Battery Energy Storage System materially different from the development consented for assessment by Galway

County Council and now on appeal to An Coimisiún Pleanála as ABP-320916-24. The application as lodged with GCC on 8 July 2024 (ref. 2460845), refused on 30 August 2024, and appealed to ACP on 26 September 2024, describes the LDES facility as comprising *"an open area battery energy storage system containing 168no. single storey battery enclosures and 56no. single storey medium voltage power station (MVPS) enclosures"*.

The FRA assesses a 138-battery / 138-MVPS scheme. At section 1.5 (Scope, p.3) the document states the assessment encompasses *"One hundred and thirty-eight (138) battery storage containers arranged in a configured layout. One hundred and thirty-eight (138) Medium Voltage Power Stations (MVPS) serving as the grid interface units."* This is repeated at section 2.1 (p.4): *"The Coolpowra BESS site comprises one hundred and thirty-eight battery enclosures (containers) and one hundred and thirty-eight MVPS enclosures (containers)..."* and at section 2.2 (p.5).

The discrepancy is material in three dimensions. **Quantity**: 30 fewer battery enclosures (representing a 17.9% underestimate of the population of potential thermal-runaway sources, of detection and suppression instances required, and of UL 9540A test units). **Inventory**: 82 additional MVPS units, each containing oil-filled transformers, switchgear and a fire-load not present in the consented scheme. **Architecture**: the application is a 3:1 battery-to-MVPS configuration; the FRA assesses a 1:1 configuration. These are different electrical designs, not different versions of the same design.

Article 5(1)(a) of Directive 2011/92/EU (as amended by Directive 2014/52/EU) requires the EIAR to contain *"a description of the project, including in particular ... a description of the physical characteristics of the whole project."* Schedule 6 of the Planning and Development Regulations 2001 (as amended) transposes this. Where the safety assessment underlying the EIAR conclusion is calibrated to a different project from the project described in the application, the EIAR is internally inconsistent as to what is being assessed and the EIA cannot lawfully be completed.

In *Commission v Ireland* (Case C-50/09) the Court of Justice held that the obligation to assess "the project" means the project as actually proposed and that the competent authority cannot make a valid determination if the EIAR describes a different project. In *Connelly v An Bord Pleanála* [2018] IESC 31, the Supreme Court held that the reasons for a planning decision must be intelligible and adequate and must allow an interested party to understand why the decision was reached on the project as proposed. A decision grounded in fire-safety conclusions calibrated to a different physical project than the project being consented cannot satisfy *Connelly*. In *People Over Wind v Coillte* (Case C-323/17), the CJEU made clear that Article 6(3) of the Habitats Directive assessment must be based on complete, precise and definitive findings capable of removing all reasonable scientific doubt about the project as proposed.

Article 6 of the EIA Directive and Article 6 of the Aarhus Convention require *"early and effective"* public participation. The newspaper notice and site notices that opened the public-participation window were drafted to the 168/56 description. Members of the public — including the 37 pages of objectors on the GCC file — formed their submissions on that description. The fire-safety case being assessed is for a different installation. In *Sweetman v An Bord Pleanála* [2021] IESC 1 the Supreme Court confirmed that defects in the description of a project that go to the public-participation regime cannot be cured by later supplementation: participation has to be on the actual project from the start.

The misdescription is not severable from the EIA process. The TLUP/consequence modelling at Appendix 17.2 (DNV) is calibrated to inventory and configuration. If the inventory the TLUP models does not match the inventory being consented, the Seveso III obligation (Directive 2012/18/EU, transposed by the Chemicals Act (Control of Major Accidents Involving Dangerous Substances) Regulations 2015, S.I. 209/2015) is not discharged for the consented project. The HSA submission of 18 July 2024 cannot have been answered.

An Coimisiún Pleanála cannot lawfully proceed to determination on the appeal without either (a) requiring the applicant to lodge a revised application matching the FRA description, which would re-open newspaper notice, site notice and the 5-week observation window under Article 17 PDR 2001; or (b) requiring a complete re-issue of Appendix 17.3 (and consequentially Appendix 17.2 and Chapter 17) against the correct 168/56 project description, accompanied by a fresh FI process to allow public consideration of the corrected fire-safety case. To proceed without one of those steps would expose any grant to a high-merit judicial review on *Connelly* and *Sweetman* grounds.

The Fire Risk Assessment also contains internal contradictions of the kind that, in a credentialed expert document, would be picked up at peer review. Their presence on the face of the document is independent evidence that the deliverable has not been subject to qualified technical review.

1. **The grid arithmetic does not reconcile.** Section 2.1 (p.4) states the BESS occupies *"twenty-five rows and nine columns, covering an approximate footprint of 178.5 meters by 156.5 meters"*. A 25 × 9 grid yields 225 positions. The asset population stated in the same section is 138 batteries plus 138 MVPS — a total of 276 units. The grid as described cannot physically accommodate the asset population as described.
2. **The voltage specification is stated four ways for the same equipment.** Section 2.2 (p.5) describes MVPS output as *"between 10 kV and 35 kV"*. Section 2.3 (p.6) states IPP equipment *"operate at voltages up to 20kV for the medium voltage equipment"*. Section 3.2.4 (p.9) refers to *"High voltages (up to 33 kV)"* on MVPS. Section 3.3.1 (p.10) describes IPP switchgear *"operating at up to 33 kV"*. The same equipment is described as operating at three different voltage ceilings (20kV, 33kV, 35kV) across four locations in the same document. This is a critical safety parameter — fire-suppression product selection, arc-fault energy calculations, exclusion-zone distances and PPE specification all depend on it.
3. **The suppression specification is conditional.** Section 5.3 (p.14) states MVPS *"may be fitted with gaseous or water mist suppression systems"* and the IPP building is *"designed for appropriate fire suppression, likely including gaseous or sprinkler systems"*. "May be" and "likely" are not engineering specifications. The reader cannot determine from the FRA what suppression technology is actually proposed for either the MVPS or the IPP. Section 5.1 ("Structural Fire Protection") makes the same defect explicit: *"Steel insulated doors, presumed fire-rated, will provide further fire separation..."*. The word "presumed" in a fire-safety document, applied to fire-rated doors, is disqualifying.

A document whose internal arithmetic does not reconcile, whose voltage specification is stated four different ways, and which cites a non-existent edition of a foundational standard, cannot satisfy the EIA Directive Article 5(3)(a) requirement that the EIAR be *"prepared by competent experts"* and *"based on... scientifically reliable, up-to-date and complete information"*. The same point engages s.172(1F) of the 2000 Act (as amended by the 2018 Act). An Coimisiún Pleanála is required to satisfy itself as to the quality of the EIAR; it cannot do so on a document with this many self-contradictions in the fire-safety appendix.

13. The Fire Risk Management Plan (FRMP)

ACP Further Information (9 Jan 2026): Submit a Fire Risk Management Plan (FRMP) to include … (i) how risk would be addressed and minimised ….. (ii) preventative measures ….. (iii) specific measures to reduce risk of fire

And (iv) The FRMP should be prepared by a suitably qualified technical expert / advisor. Details and qualifications to be submitted.

The applicant responded to this FI request by providing a Fire Risk Assessment. The FRMP and FRA are different documents which serve different purposes. A Fire Risk Assessment (FRA) is the foundational, investigative process of identifying fire hazards, evaluating existing safety measures, and determining who is at risk in a building. A Fire Risk Management Plan (FRMP) is the ongoing, operational strategy that translates those assessment findings into actionable, day-to-day procedures to prevent fires and manage emergencies.

An Coimisiún Pleanála sought a FRMP prepared by a suitably qualified technical expert / advisor with details of qualifications to be submitted. The applicant appointed themselves as the technical expert / advisor.

There are a number of flaws in the FRA, as outlined in point 12 above.

An Coimisiún Pleanála should continue to seek a complete and thorough FRMP prepared by a suitably qualified and independent expert with relevant qualifications in managing fire risk. Otherwise, the response to the FI must be deemed insufficient.

14. Failure to Assess Reasonable Alternatives

ACP Further Information (9 Jan 2026): Provide a more considered and comprehensive description of the 'reasonable alternatives' studied with particular emphasis on 'alternative locations'

The Addendum provided in response to this request for further information looks at variants of the chosen scheme but not alternatives to It.The EIAR Addendum does not discharge the applicant's obligation under Article 5(1)(d) of, and Annex IV(2) to, the EIA Directive (Directive 2011/92/EU as amended by Directive 2014/52/EU). What Section 3.2 presents as a "consideration of alternatives" is, on its own terms, three distinct things — alternative *designs* for a single sub-component (temporary construction access), a *do-nothing* scenario, and a justificatory narrative for the chosen site — none of which constitutes the assessment the Directive requires for the strategic question actually in issue: where a 1,155 MWe reserve gas generator, BESS and 400kV GIS substation are to be located. The reasonable alternatives the applicant says it studied are neither described nor subjected to the comparison of environmental effects the Directive mandates.

Article 5(1)(d) requires the EIAR to contain "a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment" (consolidated Directive, EUR-Lex[17]). Annex IV(2) — the provision the Addendum itself invokes at 3.2.1 — expands this to require "a description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, *including a comparison of the environmental effects*" (same source; emphasis added). Two cumulative duties arise: (i) describe the reasonable alternatives actually studied; and (ii) compare their environmental effects against the chosen option. Location is expressly enumerated as a dimension of "reasonable alternatives."

[17] https://eur-lex.europa.eu/eli/dir/2011/92/2014-05-15/eng

This is transposed into Irish planning law by Schedule 6 of the Planning and Development Regulations 2001, as substituted by Article 97 of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 (SI 296/2018), read with section 172 of the Planning and Development Act 2000 (as amended) and Article 94 of the Regulations (OPR / DHLGH EIA Guidelines 2018, para 2.9 and fn 12[18]). The Schedule 6 wording mirrors Annex IV(2) verbatim, including the comparison-of-environmental-effects requirement.

In *Holohan v An Bord Pleanála* (Case C-461/17, CJEU, 7 November 2018, ECLI:EU:C:2018:649[19]) the Court held that, in relation to alternatives, the developer must supply information on the environmental impact of *both* the chosen option *and* the main alternatives it studied, together with the reasons for the choice taking environmental effects into account — and that this obligation extends to alternatives rejected at an early stage. *Holohan* was decided on the predecessor text (Article 5(3)(d) and Annex IV point 3 of the unamended 2011 Directive). The 2014 amendment did not dilute that principle; it hardened it, by replacing "outline of the main alternatives" with an express requirement for a *comparison of the environmental effects* of the reasonable alternatives studied. The *Holohan* logic therefore applies *a fortiori* under the regime governing this application.

On the document as submitted (drawn from the EIAR Addendum, January 2026, Section 3.2):

- Section 3.2.5 ("Alternative Designs") addresses only the temporary construction access — unbound stone haul road versus bound surface (3.2.5.1) and bottomless arch versus closed culvert versus clear span for two watercourse crossings (3.2.5.2). These are design variants of a single construction sub-element, not alternatives to the development.
- Section 3.2.3 ("Do Nothing") describes retention of the site "as-is." A do-nothing baseline is a separate Annex IV requirement (the baseline scenario, Annex IV(3)); it is not a substitute for the assessment of reasonable alternatives.
- Section 3.2.2 ("Location") supplies a justification for the chosen Coolpowra site built around the need to connect at a 400kV node. It states that "Alternative sites along the 400kV were evaluated at high level at the outset" but were discounted for "lack of available lands, lack of suitable lands, inadequate roads and access arrangement, environmental sensitivities, insufficient buffer to residential receivers, and other factors outside of the applicant's control."

By the applicant's own account, alternative sites were studied. Yet not one such alternative site is identified, described, or located; and no comparison of the environmental effects of any alternative site against the chosen site is provided. The Addendum gives a list of *conclusions* (sites were unsuitable) without the underlying *assessment* (which sites, on what environmental metrics, compared how). That is precisely the deficiency *Holohan* and Annex IV(2) are directed at: where alternatives are studied, the studying must be shown and the environmental comparison made. Bare assertion of an unfavourable outcome is not a "comparison of the environmental effects."

The Addendum instead attempts to invoke the 2018 EIA Guidelines and 2022 EPA EIA Guidelines for the proposition that, for a site-specific project, "alternative sites may not be relevant" and the developer may give "a broad description of the main alternatives and key issues rather than a 'mini-EIA' for each."

This response is flawed for the following reasons:

- First, guidance cannot displace a mandatory EIAR content requirement transposed from a Directive. The 2018 Guidelines are a material consideration; they are not capable of diluting

[18] https://www.opr.ie/wp-content/uploads/2019/08/2018-Environmental-Impact-Assessment-1.pdf
[19] https://eur-lex.europa.eu/case/EN/C_461_17

Annex IV(2) / Schedule 6, and any reading of them that dispensed with the comparison duty altogether would be *ultra vires* the Directive.

- Second, the guidance, even taken at its highest, addresses *granularity* (broad description rather than a full EIA of each alternative), not *existence*. It permits a proportionate description; it does not permit the omission of any identified alternative and any comparison. The applicant has read a permission to summarise as a permission to assert.
- Third, and decisively, the applicant cannot have it both ways across its own statutory case. The "specific characteristic" relied on — the 400kV connection **need** — *narrows* the universe of reasonable alternatives to sites along or proximate to the 400kV network; it does not extinguish it. The applicant concedes that universe is non-empty (the applicant says it "evaluated" sites "along the 400kV"). Having defined the relevant field of alternatives and confirmed it studied candidates within that field, the applicant is obliged to describe those candidates and compare their environmental effects for consideration. It did neither.

This defect goes to the adequacy and completeness of the EIAR — a matter the Board must be satisfied of before it can lawfully carry out the EIA and reach a reasoned conclusion. An EIAR that omits a mandatory Annex IV element is not capable of grounding a lawful EIA, and a consent granted on foot of it is vulnerable on that basis.

15. Traffic and N65 Site Access

> **Galway County Council refusal (30 Aug 2024):** (1) traffic hazard and the unsuitability of the local road network and proposed site access

The proposed development relies on the creation of a new vehicular access onto the N65 National Secondary Road outside the 60 kph speed limit zone. That access is:

(i) at variance with binding Ministerial guidelines made under section 28 of the Planning and Development Act 2000, as expressly confirmed by the prescribed statutory authority for the national road network in writing to the planning authority;

(ii) procedurally defective in that no Design Report under TII Publications DN-GEO-03030 has ever been submitted to or approved by Transport Infrastructure Ireland, in breach of mandatory pre-application engagement requirements;

(iii) at variance with the settled planning history of the immediately adjoining frontage, where Galway County Council has refused permission on materially identical grounds in three previous planning applications[20][21][22], spanning a period now exceeding twenty years, on the basis of sightline deficiencies that the applicant's own documentation does not demonstrate to have been resolved.

[20] https://www.eplanning.ie/GalwayCC/AppFileRefDetails/082697/0

[21] https://www.eplanning.ie/GalwayCC/AppFileRefDetails/061200/0
[22] https://www.eplanning.ie/GalwayCC/AppFileRefDetails/061200/0

This is not a matter capable of being cured by condition. It is a planning gateway: if the access onto the national road is not permissible, the use of this site for the proposed development is not permissible. GCC's first refusal reason in the parent OCGT application — traffic hazard and the unsuitability of the local road network and proposed site access — records the planning authority's own finding to precisely this effect.

15.1 TII's Submission to Galway County Council

Transport Infrastructure Ireland — the National Roads Authority pursuant to section 13 of the Roads Act 2015, and the prescribed authority under the Roads Act 1993 for the management and protection of the national road network — submitted formal observations to Galway County Council on file 2460845 on 9 August 2024. TII's findings, in unqualified language, were:

(a) The proposal is at variance with official policy in relation to control of development on/affecting national roads, as outlined in the *Spatial Planning and National Roads Guidelines for Planning Authorities* (DoECLG, January 2012);

(b) The proposal, if approved, would create an adverse impact on the national road where the maximum permitted speed limit applies and would be at variance with national policy on control of frontage development on national roads;

(c) Insufficient data has been submitted to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site;

(d) The application indicates standards which are not in accordance with those set out in TII Publications;

(e) Any proposals involving works on the National Road Network must be submitted to TII for consideration via a Design Report as detailed in TII Publications DN-GEO-03030 prior to submission of a planning application. TII confirmed that no such design report had been received and none had been approved, and advised "that this issue should be resolved prior to any decision for the subject development."

That issue was not resolved. No Design Report under DN-GEO-03030 has been submitted in any of the three interconnected applications (ABP-320095, ABP-320094, ABP-320916-24). No TII approval of the proposed alterations to the National Road Network exists. The applicant has proceeded to the appeal stage in defiance of TII's express written instruction.

The *Spatial Planning and National Roads Guidelines for Planning Authorities* (DoECLG, January 2012) are guidelines issued under section 28 of the Planning and Development Act 2000. Under section 28(1), An Coimisiún Pleanála "shall have regard to" such guidelines in the performance of its functions; under section 28(1C), specific planning policy requirements take precedence over conflicting development plan provisions. The 2012 Guidelines articulate, in respect of national roads outside 50/60 kph speed limit zones, a presumption against the creation of additional access points or the intensification of existing accesses.

These Guidelines are operationalised at the local statutory level by the Galway County Development Plan 2022–2028, Chapter 6 (Transport and Movement). The Plan's Strategic Context (Section 6.3) expressly lists the 2012 Guidelines among the documents governing the chapter. The N65 is identified at Section 6.5.3 as a national road within scope ("N65 Kilmeen to Portumna"). Four chapter policies are directly applicable:

Policy NR 1 mandates protection of the strategic transport function of national roads "through the implementation of the '*Spatial Planning and National Roads Guidelines for Planning Authorities*' DECLG, (2012)". The Guidelines are not abstract guidance under NR 1; they are the express local implementation mechanism.

Policy NR 3 requires every significant development proposal with potential to impact the National Road Network to be accompanied by a Traffic and Transport Assessment in accordance with TII's TTA Guidelines and a Road Safety Audit in accordance with TII Publications (Standard) GE-STY-01024, both carried out by suitably competent persons. The applicant's EIAR Chapter 13 traffic appendices do not constitute a TTA in the TII Guidelines sense; no GE-STY-01024 RSA report has been produced on the planning file.

Policy NR 4 provides that the policy objective of the planning authority "will be to avoid the creation of any additional access point from new development … to national roads to which speed limits greater than 60 kmh apply" and that the policy "applies to all categories of development". The applicant's own speed survey at EIAR Chapter 13, Appendix 13.1 records 85th-percentile speeds of 91.98 km/h northbound and 94.68 km/h southbound on the N65 in this corridor. NR 4 applies, and the proposed access is directly at variance with it. The qualified concluding sentence of NR 4 ("Consideration will be given, where appropriate, for the facilitation of regionally strategic projects and utility infrastructure") is permissive, not mandatory; it does not displace the operative restriction; it does not waive the safety, visibility and design requirements of NR 1, NR 3 and the TII Publications they incorporate; and it does not extend to a privately-owned commercial gas-fired generation facility whose stated purpose (per the operator's CRU/202504 response of May 2026) is supporting the data centre industry. The "regionally strategic" projects within scope of the carve-out are those expressly named in the Plan — the N6 Galway City Ring Road, the N59 Maigh Cuilinn Bypass, and the N59 Clifden–Oughterard scheme; the Coolpowra development is none of them.

Policy NR 5 (route corridor protection) is included for completeness.

The proposed access is not merely at variance with section 28 guidance; it is at variance with the operative provisions of the statutory development plan. The Board may grant permission notwithstanding only by reference to section 37(2)(b) of the Planning and Development Act 2000, requiring satisfaction of one of the four specified grounds. Each is foreclosed on the available evidence: the development is not strategically important in the development-plan or NPF sense, the development plan provisions point in the same direction as the 2012 Guidelines (not in conflict), section 28 Guidelines reinforce rather than displace the policy, and the documented refusal history on this frontage establishes the opposite pattern of grants. The section 37(2)(b) route is not honestly available, and the Board cannot lawfully grant permission for this access on the materials before it. The applicable line of authority on departing from section 28 guidelines and statutory development plan provisions is set out in *McEvoy v Meath County Council [2003] 1 IR 208, Spencer Place Development Company Ltd v Dublin City Council [2020] IESC 52, Connelly v An Bord Pleanála [2018] IESC 31 and Crekav Trading GP Ltd v An Bord Pleanála [2020] IEHC 400.*

15.2 Refusals History

The immediately adjoining frontage to the N65 at the proposed access location has a documented planning history of refusals spanning more than two decades (examples given above).

In each instance the Council identified the impossibility of achieving adequate sightlines on the N65 at this frontage without extensive intervention to the roadside hedgerow, and refused permission on the basis that the resulting development would constitute a traffic hazard. The refusal pattern is not isolated;

it is consistent, persistent, and based on the physical characteristics of the site that have not materially changed.

The roadside hedgerow identified in those refusals remains substantially intact. The applicant's documentation does not demonstrate:

(a) the existing sightlines available on the ground; (b) the sightlines required under TII standards (DN-GEO-03030); (c) the extent of hedgerow removal or setback required to achieve them; (d) ownership or control of the lands within the necessary visibility envelope; or (e) maintenance arrangements for the visibility envelope over the operational lifetime of the development.

The proposed access is therefore subject not merely to a policy objection from TII, but to a settled and unbroken refusal pattern by the planning authority on the same physical frontage, on grounds (sightline deficiency, hedgerow constraint, traffic hazard) that have not been displaced by anything in the applicant's documentation.

A grant of permission against that prolonged pattern would, on its face, give rise to an obligation to provide reasons of a particularly cogent nature explaining (i) why the consistent planning judgement of the local authority over twenty years is to be set aside, and (ii) what has materially changed on the ground or in the design to displace the sightline objection.

15.3 Heathlawn Bridge

The local road network downstream of the proposed access is constrained by Heathlawn Bridge, which on the available evidence operates as a network bottleneck. The applicant's transport documentation does not demonstrate:

(a) the effective carriageway width of the bridge and its approaches;

(b) the structural suitability of the bridge for the abnormal-load deliveries the development requires (gas-turbine components, GIS transformers, battery modules, MVPS units);

(c) the management of opposing vehicle conflicts on a single-track or sub-standard structure; or

(d) the swept-path negotiation of abnormal loads through the bridge envelope.

The absence of this assessment compounds the TII point at (c): insufficiency of data on the operational and safety effects on the road network as a whole, not merely at the immediate junction.

15.4 Cumulative Impact

The Coolpowra site is the subject of three planning applications — ABP-320095 (OCGT), ABP-320094 (GIS substation) and ABP-320916-24 / GCC 2460845 (BESS/LDES) — which the applicant has itself conceded are operationally interconnected components of a single integrated development on a single site, served by a single intended access onto the N65.

The construction-phase HGV movements, abnormal-load deliveries, operational maintenance traffic, workforce movements and commissioning traffic of all three developments have not been assessed cumulatively against the N65 access or against the downstream road network. TII's letter of 9 August 2024 records insufficiency of data on a single file. The cumulative position is materially worse than the position TII addressed. Cumulative assessment of operationally interconnected projects is mandatory under the EIA Directive and the case law on project splitting: *O'Grianna v An Bord Pleanála* [2014] IEHC

632; *Sweetman v An Bord Pleanála* [2021] IEHC 16; *Commission v Ireland* C-392/96; *Salzburger Flughafen* C-244/12.

15.5 Galway County Council's Refusal

Galway County Council, on consideration of the parent OCGT application and having had the TII submission of 9 August 2024 before it, refused permission. Refusal Reason 1: traffic hazard and the unsuitability of the local road network and proposed site access records the Council's own planning judgement, made in the exercise of its statutory function and in accordance with its own development plan, that the proposed access is unacceptable.

That is not a "view" to which the Board is to "have regard" alongside others. It is a determination by the competent planning authority, taken on the file the Board is now asked to determine on appeal, which the Board may displace only by stated, cogent and engaged reasons explaining why the planning authority's finding of fact is unreliable. No such reasons have been advanced.

The Board is respectfully requested to refuse permission on the following grounds, alternative and cumulative:

(a) That the proposed access is at variance with the *Spatial Planning and National Roads Guidelines for Planning Authorities* (DoECLG, January 2012), being statutory guidelines under section 28 of the Planning and Development Act 2000, and accordingly that permission be refused on national roads policy grounds;

(b) That, in the absence of any Design Report submitted to or approved by TII under TII Publications DN-GEO-03030, the Board has no proper evidential basis on which to be satisfied that the proposed access can be constructed and operated without detrimental impact on the capacity, safety or operational efficiency of the national road network, and accordingly that permission be refused for insufficiency of data;

(c) That a grant of permission would constitute a departure from a settled and consistent pattern of refusals on the immediately adjoining frontage of the N65, evidenced by GCC Planning References 05/4009, 06/1200 and 08/2697, extending over more than twenty years and based on sightline deficiencies which the applicant's documentation does not demonstrate to have been resolved;

(d) That the cumulative traffic and safety impact of the three interconnected Coolpowra developments on the single N65 access point and the downstream road network (including the Heathlawn Bridge constraint) has not been lawfully assessed, in breach of the EIA Directive and the project-splitting prohibition.

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