

Jonathan Dunne

From: Info Not Here Not Anywhere <info@notherenotanywhere.com>
Sent: Monday, September 22, 2025 5:28 PM
To: SIDS
Subject: Observation - Case 322568 - Aideen O'Dochartaigh - NHNA
Attachments: NHNA - Observation - ABP-322568-25 (1).pdf

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Hello,

Please find attached our observation for Case 322568.

It would be much appreciated if we could receive confirmation of receipt of this observation.

If there are any questions or concerns don't hesitate to contact.

Kind Regards,
Aideen O'Dochartaigh.

--

on behalf of

Not Here Not Anywhere - an all-volunteer organisation

notherenotanywhere.com

I: [@notherenotanywherenhna](https://twitter.com/notherenotanywherenhna)

B: [@nhna.bsky.social](https://bsky.app/profile/nhna.bsky.social)

F: [@notherenotanywherenhna](https://twitter.com/notherenotanywherenhna)

For a fossil free future for Ireland

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Not Here Not Anywhere,
c/o Aideen O'Dochartaigh,
info@noherenotanywhere.com.

Introduction

Not Here Not Anywhere (NHNA) is a nationwide, grassroots, volunteer group campaigning to end fossil fuel exploration and the development of new fossil fuel infrastructure in Ireland. We advocate for a just transition to publicly-owned renewable energy systems and a society-wide reduction in energy demand both here, and around the world. We are a non-partisan group and are therefore not affiliated with any political party. NHNA's position is that there is no justification for any LNG terminals in Ireland, whether privately-owned or state-led. However, given the scope of this observation, and the related documentation for consideration, we will be demonstrating how this proposed privately-owned development should not proceed as it is not in-line with current Government policy.

As invited by ACP, this submission responds to two pieces of new information provided on the application ABP-322568-25 for "10-year permission for proposed Shannon Technology and Energy Park consisting of power plant, battery energy storage system, floating storage and regasification unit, jetty, onshore receiving facilities, above ground installation and all ancillary structures/works. Townlands of Kilcolgan Lower and Ralappane, Ballylongford, Co. Kerry". The additional information consists of 1) a letter from Minister Daragh O'Brien in response the ACP's request for clarification sent on 05/08/2025 (hereafter referred to as "the Minister's letter"), and 2) the letter written by McCann Fitzgerald on behalf of Shannon LNG, from 01/08/2025, (hereafter referred to as "the Solicitors' letter").

1. Government policy

Government policy as it relates to Liquefied Natural Gas (LNG) terminals can be understood through various policy instruments and processes started in the lifetime of this government and the previous government. Throughout this document we will refer to these documents as:

- The Programme for Government 2025¹ (PfG25)

¹ Department of the Taoiseach (2025). Programme for Government 2025 Securing Ireland's Future. Available at: <https://assets.gov.ie/static/documents/programme-for-government-securing-irelands-future.pdf>.

- Policy Statement on the Importation of Fracked Gas² (Fracked Gas Policy Statement)
 - Government approve State-led strategic gas emergency reserve³ (State-led Policy Decision)
- Climate Action and Low Carbon Development (Amendment) Bill 2021⁴ (The Climate Act)
- Energy Security in Ireland to 2030⁵ (ESR)

The PfG 2025 states that the Government commits to: “Sustained action to tackle the climate crisis; to decarbonise the economy”¹. It also states: “Time is of the essence as global warming continues. The Government is committed to taking decisive action to radically reduce our reliance on fossil fuels and to achieve a 51% reduction in emissions from 2018 to 2030, and to achieve net-zero emissions no later than 2050 to decarbonise the economy”¹. The PfG is reflective of overarching government policy and “ensures that all Departmental Strategy Statements reflect the PfG commitments which that Department is responsible for”⁶, which the Programme for Government Office oversees.

In light of this, the government deemed it necessary to pursue “A temporary State-led strategic LNG gas emergency reserve”³ to “address Ireland’s energy security needs while avoiding fossil fuel lock-in”³, which marked the conclusion of the ESR process. Any reasonable interpretation of the PfG and subsequent policies would conclude that the state is pursuing a policy of a temporary state-led Liquefied Natural Gas terminal, exclusively, as a temporary emergency reserve due to known impacts of fossil fuels on our decarbonisation goals, as set out in the Climate Act⁴.

Confusion as it relates to LNG policy may arise from the current government's removal of the Fracked Gas Policy Statement², as of March 4th 2025. Despite this, it should be noted that the explicit motivation for removing this policy statement was to allow the government to pursue the development of a “A temporary State-led strategic LNG gas emergency reserve”³, as stated in the State-led Policy Decision and affirmed by the Minister’s letter to ACP i.e. “The approval of this Strategic Gas Emergency Reserve marks that completion [of the Fracked Gas Policy Statement]”. In the Minister’s comments to the Climate Committee⁷ he re-iterated that “The Government made a decision on the floating storage regasification unit, FSRU, that there be a State-owned and operated liquid natural gas reserve in the event of something happening to our existing connections.”⁷ and that it “...will be on a temporary basis”⁷ in the

² Department of Climate, Energy and the Environment (2021). *Policy Statement on the Importation of Fracked Gas*. Available at: <https://www.gov.ie/en/department-of-climate-energy-and-the-environment/publications/policy-statement-on-the-importation-of-fracked-gas/>.

³ Department of Climate, Energy and the Environment (2025). Government approves development of State-led strategic gas emergency reserve. Available at: <https://www.gov.ie/en/department-of-climate-energy-and-the-environment/press-releases/government-approves-development-of-state-led-strategic-gas-emergency-reserve/>.

⁴ Department of Climate, Energy and the Environment (2021a). *Climate Action and Low Carbon Development (Amendment) Bill 2021*. Available at: <https://www.gov.ie/en/department-of-climate-energy-and-the-environment/publications/climate-action-and-low-carbon-development-amendment-bill-2021/>.

⁵ Department of Climate, Energy and the Environment (2023). *Energy Security in Ireland to 2030*. Available at: <https://www.gov.ie/en/department-of-climate-energy-and-the-environment/publications/energy-security-in-ireland-to-2030/>.

⁶ Department of the Taoiseach (2018). *Programme for Government*. Available at: <https://www.gov.ie/en/department-of-the-taoiseach/publications/programme-for-government/>.

⁷ Dáil Éireann (2025). *Joint Committee on Climate, Environment and Energy*. Available at: https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_climate_environment_and_energy/2025-07-02/debate/mul@/main.pdf.

case of emergencies. Therefore, it is not reasonable to infer that the removal of the policy statement should allow for the approval of one, or multiple, private LNG terminals across Ireland, particularly when considering other government policy, such as The Climate Act⁴, which determines Ireland's broader energy policy and decarbonisation goals. The Minister makes reference to this fact in his letter to ACP, namely: "The Government is committed to taking decisive action to radically reduce our reliance on fossil fuels and to achieve a 51% reduction in emissions from 2018 to 2030, and to achieving net-zero emissions no later than 2050". No credible evidence has been provided by Shannon LNG Ltd., or their solicitors' letter, in which manner this development could be pursued without significantly risking our legally-binding climate targets, in contravention of Government policy.

In addition, Minister O'Brien references the ESR⁵, in the letter, to this end; stating: "Ireland's future energy will be secure by moving from a fossil fuel-based energy system to an electricity-led system, maximising our renewable energy potential, flexibility and being integrated into Europe's energy systems"⁵, further affirming that the government's overall energy policy is focused on electrification, decarbonisation and renewables. A temporary State-led strategic LNG gas emergency reserve should be viewed as the exception to the rule, in the case of emergencies, as outlined by the Minister on multiple occasions. Therefore, the Solicitors' letter to ACP, asserting "There is no justification for discrimination between a Gas Networks Ireland ("GNI")-sponsored project and this application." is demonstrably not borne out by government policy. Furthermore, the Minister has refuted this point in the aforementioned Climate Committee⁷ meeting where he stated: "To reiterate, the FSRU will not just be State led but State owned and managed through GNI"⁷. To be clear, In no government policies, or statements from the relevant Ministers', is the pursuit of a private LNG or FSRU terminal determined as government policy and the evidence bears that such a commercially run facility would be detrimental to overall government policies of decarbonisation, hence the government's conclusion that a tightly controlled state-led configuration was necessary in the first place, which is evidenced by the CEPA analysis that fed into the ESR⁵. As Minister O'Brien stated at the Climate Committee: "The policy decision Government has made regarding State-owned, State-led and State-operated emergency gas reserves is very clear and has been made and published. It has been a matter of record in the Dáil and the Seanad and a matter of record by way of a Government decision at Cabinet"⁷.

2. Impact on Ireland's emissions, carbon budgets and gas demand

National carbon budgets

The proposed project will increase Ireland's GHG emissions and threaten the carbon budgets. As stated in the Minister's letter: "The Government is committed to taking decisive action to radically reduce our reliance on fossil fuels and to achieve a 51% reduction in emissions from 2018 to 2030, and to achieving net-zero emissions no later than 2050." Ireland is already facing an alarming shortfall in its progress to reach the 51% emissions reduction required by 2030. Most recent estimates from the EPA⁸ project that at best, Ireland will achieve a 23% emissions reduction by 2030, based on 2018 levels. This is a further

⁸ Environmental Protection Agency (2025). *EPA Projections Show Ireland off Track for 2030 Climate Targets*. Available at: <https://www.epa.ie/news-releases/news-releases-2025/epa-projections-show-ireland-off-track-for-2030-climate-targets.php>

decline on the projected reductions reported in 2024, which estimated a 29% reduction by 2030⁸. Similarly, Ireland is also falling significantly short of required action to meet legally-binding Carbon budgets: “The first Carbon Budget (2021-2025) of 295 Mt CO₂eq is now projected to be exceeded by between 8 to 12 Mt CO₂eq. The second budget is now projected to be exceeded by a significant margin of 77 to 114 Mt CO₂eq, including carryover from the first Carbon Budget”.⁸ LNG is a particularly harmful fossil fuel. Gas, and particularly LNG, emits high levels of methane at all stages of the supply chain⁹. The government-commissioned CEPA analysis is clear that a commercial FSRU would threaten the electricity Sectoral Emissions Ceiling (SEC):

“Furthermore, the introduction of a commercial FSRU could result in higher emissions being incurred in Ireland. For example, the operation of an FSRU can generate additional emissions through regasification, flaring, fugitive emissions and stationary energy. While our appraisal highlights that FSRU emissions are highly dependent on the technical characteristics of the facility (e.g., on the ability of a FSRU to use seawater for heating (regassification)), two global FSRU operators have estimated emissions of between 70,000-80,000 tCo₂e per FSRU per annum. This is the equivalent of 2% of the total Electricity SEC between 2026 and 2030.”¹⁰

Shannon LNG argues that it would not add to the overall gas supply, but rather diversify supply and replace some of the volume currently supplied through the Moffat pipelines. However, by virtue of the additional emissions through leakage etc. which LNG vs conventionally transported gas entails, they would cause further emissions which we cannot afford to cause given we are already behind on our legally-binding climate targets.

During a recent meeting of the Climate Committee Minister O’Brien, restated the commitment to reaching 80% renewable energy by 2030 and how this was incompatible with new gas infrastructure; “Our target is 80% renewables by 2030. We will not do that if we allow additional gas facilities”.⁷ This statement alone, made in the Oireachtas in July, should be a clear sign that granting permission for this project is not in line with current Government policy as stated by the Minister.

Section 2.7 of the Solicitors’ letter states: “For the purposes of control, even though not in fact required by the SOS Review [Energy Security Review], the State might choose to hold gas reserves at a location within its ownership, under permissions and licences that it has applied for and that have been granted to it, constructed and operated using staff employed by it, with purchases made by it direct with shippers of gas. That choice is a matter for the State, but is wholly irrelevant to the assessment of this application.”

⁹ Alvarez, R.A et al. (2018). Assessment of methane emissions from the U.S. oil and gas supply chain. *Science*, 361(6398), doi:<https://doi.org/10.1126/science.aar7204>.

¹⁰ CEPA (2023). *Review of the Security of Energy Supply of Ireland’s Electricity and Natural Gas Systems*. Available at: <https://assets.gov.ie/static/documents/annex-4b-cepa-supplementary-technical-analysis.pdf>.

We refute this point that Shannon LNG could proceed with their plans for a commercial LNG terminal, while the Government proceeds with a state-led temporary emergency gas reserve, for the following reasons:

The Government's ESR⁵ states that gas supply in Ireland is projected to be secure except for the circumstance of both Moffat pipelines being dysfunctional. Their analysis showed that only the resulting risks to essential services in this instance and the EU N-1 requirement justify building large-scale LNG infrastructure with additional emissions compared to conventional gas infrastructure. This demonstrates the clear case for the private project from Shannon LNG to be denied planning permission, as such a terminal is not needed and justifiable for the everyday operations and general gas supply which Shannon LNG intends. As outlined elsewhere in our submission, LNG terminals have much higher emissions due to leakage, sourcing through fracking and other technical factors. Thus, the ACP would be perfectly justified in denying planning permission for the proposed commercial LNG terminal on the basis of our emissions targets as set out in the Climate Act⁴, as well as the slow progress towards these targets thus far (again as outlined elsewhere in our submission), making the construction of another emissions-intensive LNG import infrastructure contradictory to policy.

The Minister's letter states: "... any individual decision in respect of this or other planning applications remains within the remit of An Coimisiún Pleanála, and I respect fully the independence that An Coimisiún Pleanála exercises in this regard."

While the Minister has recognised that An Coimisiún Pleanála is responsible for addressing individual planning applications, ACP is required to perform its functions in compliance with, among others, "(d) the furtherance of the national climate objective, and (e) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State." as per Section 15 of the Climate Act⁴.

Ireland's obligations under the Paris Agreement

Ireland's carbon budgets are the mechanism by which international obligations are translated into domestically binding commitments and Ireland's contribution to limiting global warming to the 1.5°C limit of the Paris Agreement (and the warming limit which has been recognised by the International Court of Justice (ICJ)¹¹ as the primary temperature goal under the Paris Agreement), as stated by expert testimony at a recent Joint Oireachtas Committee on Climate, Environment and Energy¹². In performing its functions in a manner consistent with mitigating greenhouse gas emissions, ACP must also recognise obligations on Ireland to limit global warming to 1.5°C in line with the principles of equity and CBDR-RC as mandated by the Paris Agreement and clarified by the ICJ advisory opinion (AO)¹⁰.

¹¹ International Court of Justice (2025). *Obligations of States in Respect of Climate Change*. Available at: <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>

¹² Daly, H. (2025). *Opening Statement of Prof. Hannah Daly, UCC Joint Oireachtas Committee on Climate, Environment and Energy*. Available at: https://data.oireachtas.ie/ie/oireachtas/committee/dail/34/joint_committee_on_climate_environment_and_energy/submissions/2025/2025-09-17_opening-statement-prof-hannah-e-daly-professor-in-sustainable-energy-and-energy-systems-modelling-ucc_en.pdf

According to the ICJ, “a party’s compliance with its obligations to pursue domestic mitigation measures under Article 4, paragraph 2, is to be assessed on the basis of whether the party exercised due diligence in its efforts and in deploying appropriate means to take domestic mitigation measures, including in relation to activities carried out by private actors. Indeed, as ITLOS observed, the “obligation of due diligence is particularly relevant in a situation in which the activities in question are mostly carried out by private persons or entities”¹⁰.

Note: while Ireland’s Climate Act does not specifically reference article 4.2 of the Paris Agreement its obligations still apply in full to Ireland, as the ICJ notes that the terms of Article 4.2 put in place legally-binding obligations: “The use of the prescriptive term “shall”, as well as the reference to “[e]ach Party” in the first sentence and “Parties” in the second sentence, make plain that this provision sets forth two binding legal obligations which must be performed by parties individually.”¹⁰.

Furthermore, the ICJ AO clarifies that “States must take measures to protect the climate system and other parts of the environment. These measures may include, inter alia, taking mitigation and adaptation measures, with due account given to the protection of human rights, the adoption of standards and legislation, and the regulation of the activities of private actors. Under international human rights law, States are required to take necessary measures in this regard.”¹⁰

The ICJ AO continues:

*“281. The Court recalls that due diligence requires a State to “use all the means at its disposal in order to avoid activities which take place in its territory, or in any area under its jurisdiction, causing significant damage to the environment of another State” ... This means that States must “put in place a national system, including legislation, administrative procedures and an enforcement mechanism necessary to regulate the activities in question, and . . . exercise adequate vigilance to make such a system function efficiently, with a view to achieving the intended objective” (Climate Change, Advisory Opinion, ITLOS Reports 2024, p. 89, para. 235).
282. As far as climate change is concerned, such appropriate rules and measures include, but are not limited to, regulatory mitigation mechanisms that are designed to achieve the deep, rapid, and sustained reductions of GHG emissions that are necessary for the prevention of significant harm to the climate system. These rules and measures must regulate the conduct of public and private operators within the States’ jurisdiction or control and be accompanied by effective enforcement and monitoring mechanisms to ensure their implementation.”¹⁰*

Therefore, where a private actor’s planning application risks the State’s mitigation measures and efforts to achieve the “deep, rapid, and sustained reductions of GHG emissions that are necessary for the prevention of significant harm to the climate system”¹⁰, it could be considered in contravention of the ICJ AO and the obligations of States it has clarified. Ultimately these clarifications provided by the ICJ AO apply to Ireland’s Climate Act as they relate to the mitigation measures required under the Paris Agreement and therefore the measures which the State and State bodies must act in consistency with.

This line of argument clearly shows that ACP, as an independent body as pointed out by the Minister's letter, must be guided in their decision on Shannon LNG's application by climate targets in legislation and Government policy as well as international obligations to emissions reductions.

Gas demand

In paragraph 5.5 of the solicitors' letter the applicant states that "the project advances Ireland's decarbonisation goals in full conformity with both the Climate Action Plan and the obligations under the Climate Acts" and argues that it would not increase gas demand. Scientific scenarios clearly indicate however that to achieve the carbon budgets mandated in the Climate Act⁴ gas demand must decrease significantly in the short term.

In section 2.15, the applicant states that the project would make the State "capable of meeting exceptionally high gas demand in the event of a loss of the single largest gas infrastructure." That exceptionally high gas demand will occur is highly unlikely based on modelling from the modelling from the Climate Change Advisory Council's 2024 carbon budget recommendations also shows that under cost optimal pathways aligned with carbon budgets, demand for natural gas will decline by 95% by 2040¹³. The SEAI also states that by necessity the carbon budgets will "constrain total fossil fuel use"¹⁴ and that natural gas use "must fall substantially by 2030 to meet carbon budgets"¹².

The Solicitor's letter notes in section 5.2: "We know that some argue that the proposed development would increase the demand for gas: that cannot be true, particularly for a private LNG import business."

This is directly contradicted by the CEPA analysis, which was a key component of the ESR, it states:

"Our appraisal also highlights the possibility that the introduction of a commercial FSRU may also stimulate higher gas demand in Ireland. For example, introducing new alternative gas supplies may reduce the incentive for some consumers to invest in energy efficiency measures or to switch to other energy solutions (e.g., industrial or commercial heat pumps). Similarly, increased gas import capacity may reduce constraints on future large-energy user (LEU) growth in Ireland. However, we note that any such increases in gas demand may be constrained by Government policies designed to meet the legally binding SECs. If the introduction of a FSRU stimulates more gas consumption in Ireland, this may have a material impact on Ireland's SEC commitments."¹⁰

There is currently more gas approved than needed to meet demand in Ireland. Commenting earlier this year on Shannon LNG's application for a gas power plant on the same site as the proposed FSRU, Friends of the Irish Environment noted:

¹³ Daly, H. et al. (2025b). The scientists' letter opposing imported US LNG. Irish Examiner. Available at: <https://www.irishexaminer.com/opinion/commentanalysis/arid-41583031.html>

¹⁴ SEAI and University College Cork (2024). Five Actions for 90% Energy Emissions Savings to 2030 The Big 5 Electrify Transport Wind, Solar and Grid Decarbonise Industry Cut Car Dependency Retrofit, Heat Pumps, and District Heating. Available at: https://www.seai.ie/sites/default/files/2024-10/The%20Big%205%20info%20sheet_0.pdf

“An Bord Pleanála appeared to be under the assumption that the development would assist in meeting the 2 GW target for new gas plants as identified in the National Development Plan 2021 – 2030 and the 10 year ‘Ireland Capacity Outlook’ first published in 2022 and repeated in the 2023 and 2024 Climate Action Plans. However, FIE’s non-exhaustive examination of planning applications shows that over 3 GW have already received final grant of planning permission with a further 2.7 GW in the planning process, including a significant amount for which imminent/overdue decisions are expected since the 2 GW target was established.”¹⁵

This means that the capacity of already approved and pending planning applications (excluding this application from Shannon LNG) “Exceeds national need by a factor of three.”¹⁵

Further considerations in relation to this point are as follows:

- The energy park development at Shannon LNG site, if approved in full, would likely see new data centres constructed on the site, or nearby, as stated by New Fortress Energy.¹⁶ This would increase energy demand that would be satisfied through the use of the associated LNG facilities if approved.
- Even if demand did not increase, and demand from current sources (i.e. UK or Corrib) was reduced to manage this balance in demand, methane emissions would still increase due to methane leakage and boil-off associated with LNG. Boil-off means that even in low-usage situations, FSRUs require constant replenishment and therefore creates an ongoing and continuous demand for LNG.
- In 2019, the UN Special Rapporteur on the human right to a clean, healthy and sustainable environment called on Developed States, such as Ireland, to demonstrate leadership by, among other urgent measures, rejecting expansion of fossil fuel infrastructure, and prohibiting the expansion of the most polluting and environmentally destructive types of fossil fuel extraction, including oil and gas produced from hydraulic fracturing (fracking).¹⁷ LNG imported to Ireland will most likely be sourced from the US where most gas is extracted through fracking, and so Ireland would play a direct role in driving demand for fracked gas.
- Fossil fuel demand and use in Ireland must fall urgently:
 - UN Special Rapporteur on human rights and climate change, Elisa Morgera’s 2025 report confirms that highest-emitting States, according to their historical responsibility, current contributions and respective capabilities, should complete phasing out fossil fuels by 2030.¹⁸ Ireland is one such high-emitting state with significant capacity to phase out.
 - The International Court of Justice Advisory Opinion of July 2025 clarifies that where a government fails to take appropriate action to limit emissions, including through fossil

¹⁵ Friends of the Irish Environment (2025) ‘Shannon LNG Power Plant faces Judicial Review.’

<https://www.friendsoftheirishenvironment.org/press-releases/shannon-lng-power-plant-faces-judicial-review>

¹⁶ Radio Kerry News (2025). Company behind Shannon LNG plans to build data centres. Available at: <https://www.radiokerry.ie/news/company-behind-shannon-lng-plans-to-build-data-centres-427236>.

¹⁷ Boyd, D.R., UN Special Rapporteur on the human right to a clean, healthy and sustainable environment (2019) ‘Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.’ <https://docs.un.org/en/A/74/161>

¹⁸ Morgera, E. UN Special Rapporteur on the promotion and protection of human rights in the context of climate change (2025) ‘The imperative of defossilizing our economies’. <https://docs.un.org/en/A/HRC/59/42>

fuel production and use, this could amount to an internationally wrongful act, and is attributable to the relevant State.¹⁹ This responsibility to limit emissions includes a government's duty to take necessary regulatory and legislative measures to achieve "deep, rapid, and sustained" emissions reductions from public and private actors operating in that State, in line with States' due diligence obligations. Failure to exercise due diligence in the performance of its primary obligation to prevent significant harm to the climate system commits an internationally wrongful act: "Failure of a State to take appropriate action to protect the climate system from GHG emissions — including through fossil fuel production, fossil fuel consumption, the granting of fossil fuel exploration licences or the provision of fossil fuel subsidies — may constitute an internationally wrongful act which is attributable to that State. The Court also emphasizes that the internationally wrongful act in question is not the emission of GHGs per se, but the breach of conventional and customary obligations identified under question (a) pertaining to the protection of the climate system from significant harm resulting from anthropogenic emissions of such gases."¹⁸

Energy security

The Government's approval of a state-led LNG facility in March 2025³ nullifies the arguments made in the solicitors' letter in its most recent correspondence to ACP citing the lack of diversity of gas supply sources and storage as an energy security risk.

In recent years, significant advances have also been made in alternatives to LNG and FSRUs. Backup battery storage is becoming cheaper and expanding at an exponential pace and while in 2022, it was estimated that by 2025 Ireland would have 335MW of backup battery storage, Ireland already has three times that amount of battery storage.²⁰ Arguments made by Shannon LNG do not reflect these advancements in alternative, renewable energy sources and storage options available to meet energy needs and Ireland's energy supply and storage needs must be assessed in line with the most recent information available.

Furthermore, the UN Special Rapporteur on human rights in the context of climate change concludes that "several international human rights law obligations underpin the fossil fuel phaseout", and recommends that "Fossil fuel companies should: (a) Urgently develop plans to close down existing operations by 2030, in consultation with the public and their workers, based on participatory assessments of human rights impacts across the value chain; ... (g) Abstain from influencing national and international climate, environmental and human rights policymaking."²¹

¹⁹ International Court of Justice (2025). *Obligations of States in Respect of Climate Change*. Available at: <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>

²⁰ Ryan, E. (2025) 'We don't need a floating liquefied natural gas facility. There is a better way.' <https://www.irishtimes.com/opinion/2025/06/10/eamon-ryan-we-dont-need-a-floating-liquefied-natural-gas-facility-there-is-a-better-way/>

²¹ Morgera, E. UN Special Rapporteur on the promotion and protection of human rights in the context of climate change (2025) 'The imperative of defossilizing our economies'. <https://docs.un.org/en/A/HRC/59/42>

Shannon LNG FSRU is not suitable as a state reserve

Section 2.5 of the Solicitor's letter states: "*Functionally, there is nothing to prevent the Applicant from maintaining a level of strategic storage at the Shannon Technology and Energy Park, so that in the event of a supply shock a level of gas supply would be available immediately for the purpose of mitigating that shock.*"

As both the Government's proposed temporary strategic LNG storage facility and Shannon LNG's proposed facility are to be similar in capacity, Shannon LNG's commercial facility with ongoing operations and output to the national grid (and therefore a constant depletion of available LNG in storage) would not satisfy the Government's decision for a state-led LNG facility to act as a back-up storage to be used in emergency situations (such as N-1).

Furthermore, the Government explicitly selected a state-led temporary emergency gas reserve over a commercially-run solution, further undermining the point in the Solicitors' letter that Shannon LNG's proposed terminal could be used as a strategic gas reserve. ESR documentation states that "Introducing a commercial FSRU may also have an impact on Ireland's ability to meet its Sectoral Emissions Ceiling (SEC) commitments"²², whereas the analysis concluded that the same increase in emissions is not anticipated from a strategic, state-led solution that is expected from commercial LNG infrastructure.

Additionally, regulations regarding the selection of private companies for state projects would require the Department to put the temporary strategic gas reserve out for tender, rather than unfairly agreeing to Shannon LNG providing this reserve just because they happened to have an existing application for a similar project with ACP.

The Government's approval of a state-led LNG facility in March 2025 has changed the context in which a private LNG facility and its associated emissions would operate. If it is not designed as a temporary emergency state reserve, Shannon LNG's application and associated risk assessments, including cumulative risks assessments, would need to consider the cumulative impacts of emissions from both a state-led FSRU and a commercial LNG facility at Shannon LNG, which it does not. There would also be a considerable effect of the cumulative impacts of further LNG facilities which may seek planning approval if Shannon LNG's application is approved. One study estimates that annual emissions from three commercial LNG facilities in Ireland would amount to 62MtCO₂eq.²³ That is more than all of Ireland's current annual emissions, and at a time when Ireland is falling alarmingly short of required climate action, must be avoided and avoiding any new source of emissions must be considered as part of "all the means at its [the State's] disposal in order to avoid activities which take place in its territory, or in any

²² Energy Security in Ireland to 2030: Annex 4B - CEPA Supplementary Technical Analysis
<https://assets.gov.ie/static/documents/annex-4b-cepa-supplementary-technical-analysis.pdf>

²³ Global Energy Monitor (2024) 'Europe Gas Tracker Report 2024'.
https://globalenergymonitor.org/wp-content/uploads/2024/02/GEM_Europe_Gas_Tracker_2024.pdf

area under its jurisdiction, causing significant damage to the environment of another State”, as required by due diligence obligations clarified by the ICJ.²⁴

It would appear that since the Government approval of a state-led LNG facility in March 2025, no consideration has been given to the cumulative impacts of both a state-led FSRU and a proposed commercial FSRU in relation to their impacts on the environment, and on Ireland’s emissions and climate obligations. The EPA’s May 2025 emissions projections include measures in the latest Government plans at the time the projections were compiled (such as the Climate Action Plan 2024) which have a realistic pathway in place for implementation.²⁵ The ICJ clarified in July 2025 that “States must assess the possible cumulative effects of their acts and the planned activities under their jurisdiction or control. Although such “activities may not be environmentally significant if taken in isolation, . . . they may produce significant effects if evaluated in interaction with other activities” (Climate Change, Advisory Opinion, ITLOS Reports 2024, p. 128, para. 365)”.²⁶

The planning application from Shannon LNG states the following in relation to emissions arising from the proposed development:

“Direct emissions from the operation of the proposed development will equate to approximately 963kt CO₂e in 2030, around 2.1% of Ireland’s carbon allowance if Ireland’s carbon reduction targets are met. As a standalone development, this represents a major adverse impact, however the impact of this development needs to be considered in the context of the key role the proposed development will play in assisting Ireland to transition to a low carbon economy,

including:

- Addressing security of energy supply risks;
- Addressing electricity capacity shortfalls;
- Supporting intermittent renewable generation...”²⁷

However, the affidavit submitted as part of judicial review proceedings against the gas power plant at the Shannon LNG site states that ‘even on the Developer’s emissions calculations (which significantly underestimate GHG emissions based on errors of fact) this single PowerStation would account for on its own 1/3rd of all budgeted emissions from the entire electricity sector in 2030. Nowhere does the Inspector [of An Bord Pleanála] explain how this could possibly be compliant with the relevant carbon budgets and sectorial emissions ceilings.’²⁸

²⁴ International Court of Justice (2025). *Obligations of States in Respect of Climate Change*. Available at: <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>

²⁵ EPA (2025) ‘EPA Projections Show Ireland off Track for 2030 Climate Targets’. <https://www.epa.ie/news-releases/news-releases-2025/epa-projections-show-ireland-off-track-for-2030-climate-targets.php>

²⁶ International Court of Justice (2025). *Obligations of States in Respect of Climate Change*. Available at: <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>

²⁷ See <https://www.pleanala.ie/en-ie/case/322568>

²⁸ Friends of the Irish Environment (2025) ‘Shannon LNG Power Plant faces Judicial Review.’ <https://www.friendsoftheirishenvironment.org/press-releases/shannon-lng-power-plant-faces-judicial-review>

The affirmations of the affidavit clearly articulate a risk to Ireland's carbon budgets, and even if it were to be argued that the precise data on emissions from the gas power plant and the associated FSRU which is intended to power it are unknown due to variability in operating hours on an annual basis, as noted by the ICJ, "States are required to take appropriate measures to prevent significant harm where reliable scientific evidence of a risk of significant harm exists. However, States should also not refrain from or delay taking actions of prevention in the face of scientific uncertainty. According to Principle 15 of the Rio Declaration, where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation (see also Article 3, paragraph 3, of the UNFCCC)."²⁴ Furthermore, the ICJ "agrees with the conclusion reached by ITLOS that "where there are plausible indications of potential risks", a State "would not meet its obligation of due diligence if it disregarded those risks" and, in that sense, the "precautionary approach is also an integral part of the general obligation of due diligence" under the duty to prevent significant harm to the environment (Responsibilities and obligations of States with respect to activities in the Area, Advisory Opinion, 1 February 2011, ITLOS Reports 2011, p. 46, para. 131). Based on the above, the Court considers that the precautionary approach or principle, where applicable, guides States in the determination of the required standard of conduct in fulfilling their customary duty to prevent significant harm."²⁴

Furthermore, the obligation of States to hold global warming to 1.5°C as clarified by the ICJ, and not to the less ambitious and even more dangerous 2°C, requires increased ambition from States and in this context, and the context of Ireland having already exceeded its fair share of the remaining global carbon budget for 1.5°C,²⁹ a reassessment of the cumulative impacts of multiple FSRUs in Ireland, and indeed the impact of one FSRU in Ireland is crucially required.

3. New Fortress Energy's financial standing

A further reason why the Shannon LNG energy park would not be a suitable site for the Government's proposed gas storage reserve is the applicant's financial standing as outlined below about Shannon LNG's parent company, New Fortress Energy (NFE).

In sections 1.4 - 1.10 inclusive the applicant makes clear that it sees the Shannon LNG and energy park project as a suitable site for the Government's strategic gas storage reserve proposed in the Review of the Security of Energy Supply of Ireland's Electricity and Natural Gas Systems. Section 1.9 states that the application presents an "opportunity to authorise an LNG import project at a uniquely appropriate location."

²⁹ See EPA, 2023. Ireland's Climate Change Assessment Volume: Achieving Climate Neutrality by 2050.

https://www.epa.ie/publications/monitoring--assessment/climate-change/ICCA_Volume-2.pdf

and McMullin et al 2019 'Assessing negative carbon dioxide emissions from the perspective of a national "fair share" of the remaining global carbon budget', *Mitigation and Adaptation Strategies for Global Change*. 25:579-602 <https://doi.org/10.1007/s11027-019-09881-6>

NFE is not a suitable candidate for a large state infrastructure project, based on the following information, all of which is drawn from NFE's own SEC filings³⁰, to which we draw the attention of An Coimisiún Pleanála:

- In September 2025 NFE announced that it had made a loss of \$557 Million in Q2 2025 (compared with a loss of \$86.9 Million in Q2 2024). Revenues had also declined with Q2 2025 at \$301.7 million compared to Q2 2024 of \$428.0 million.
- NFE also stated: *“NFE has initiated a process to evaluate its strategic alternatives to improve its capital structure. It has retained Houlihan Lokey Capital, Inc. as financial advisor and Skadden, Arps, Slate, Meagher & Flom LLP as legal advisor to assist NFE in this evaluation. The Company, along with its advisors, is considering all options available, including asset sales, capital raising, debt amendments and refinancing transactions, and other strategic transactions that seek to provide additional liquidity and relief from acceleration under its debt agreements. As part of this process, NFE is engaging in discussions with various existing stakeholders and potential investors. There are inherent uncertainties as the outcome of these negotiations and potential transactions described above are outside management’s control, and therefore there are no assurances that management will be successful in these negotiations and that any of these potential transactions will occur. In addition, there can be no assurances that these transactions will sufficiently improve the Company’s liquidity or that the Company will otherwise realize the anticipated benefits.”*³¹
- Within the Form 10-Q the company’s auditors question the company’s ability to continue on a going concern basis, as follows (emphasis added):

“In the first and second quarters of 2025, the Company recognized operating losses and negative operating cash flows, and this decline in earnings accelerated in the second quarter of 2025. The Company’s forecasted cash flows are expected to be impacted by, among other things, (i) reduced earnings following the sale of the Jamaica Business, (ii) increased interest expense, and (iii) cash tax payments resulting from the taxable gain on the sale of the Company’s Jamaica Business in May 2025.

The Company was required to provide a \$79,100 bank guarantee to holders of the PortoCem Debentures on or before August 17, 2025; this guarantee was not provided by the deadline, and as a result, a majority of debenture holders have the right to call for a meeting of holders and declare an event of early maturity. If the debenture holders exercise their right to declare an early maturity, substantially all of the Company’s outstanding indebtedness would be payable on demand.

As of the date of this filing, the Company does not expect to be in compliance with the consolidated first lien ratio or the fixed charge coverage ratio included within the Revolving Facility, Letter of Credit Facility and Term Loan A Credit Agreement for the fiscal quarter ending September 30, 2025. If the Company is

³⁰ New Fortress Energy (2025). SEC filings of New Fortress Energy. Available at: <https://ir.newfortressenergy.com/financial-information/sec-filings>.

³¹ New Fortress Energy (2025a). New Fortress Energy Announces Second Quarter 2025 Results. Available at: <https://ir.newfortressenergy.com/news-releases/news-release-details/new-fortress-energy-announces-second-quarter-2025-results>.

not in compliance with these covenants and this non-compliance is not waived, the lenders have the right to accelerate the repayment of the outstanding principal under the Revolving Facility and Term Loan A and require cash collateralization of all outstanding letters of credit. If lenders choose to accelerate under those facilities, substantially all of the Company's outstanding indebtedness would be payable on demand. If substantially all of the Company's outstanding indebtedness is accelerated, the Company would not have sufficient liquidity or capital resources to satisfy the outstanding principal obligations.

As of June 30, 2025, the Company has \$510,879 of aggregate principal amount outstanding under the 2026 Notes, which mature on September 30, 2026. If more than \$100,000 of the 2026 Notes remain outstanding 91 days prior to the maturity date (the "Springing Maturity Date"), the outstanding principal of \$2,730,127 under the New 2029 Notes becomes due. If any of the 2026 Notes remain outstanding on the Springing Maturity Date, the outstanding balance under the Revolving Facility becomes due. As of June 30, 2025, the Revolving Facility was fully drawn with \$710,400 in revolving loans plus \$19,533 in letters of credit. Additionally, if any of the 2026 Notes remain outstanding on July 31, 2026, the outstanding principal under the Term Loan B (as defined below) becomes due. Also, if any of the 2026 Notes remain outstanding 60 days prior to the maturity date of the 2026 Notes, the outstanding principal under the Term Loan A (as defined below) become due. As of June 30, 2025, there was \$295,000 outstanding under the Term Loan A and \$1,269,259 outstanding under the Term Loan B.

As such, management has concluded that, the Company's current liquidity and forecasted cash flows from operations are not probable to be sufficient to support, in full, its obligations as they become due, and there is substantial doubt as to the Company's ability to continue as a going concern.

The Company is currently engaged in discussions with holders of the PortoCem Debentures to obtain a waiver of the debenture holders' ability to declare an event of early maturity. Should the Company not be in compliance with covenants in the Revolving Facility, Letter of Credit Facility and Term Loan A, the Company will engage in negotiations with these lenders to obtain a waiver to avoid acceleration of outstanding balances. The Company has also initiated a process to evaluate strategic alternatives and has retained a financial advisor to assist in this evaluation. The Company, along with its advisors, is considering all options available, including asset sales, capital raising, debt amendments and refinancing transactions, and other strategic transactions that seek to provide additional liquidity and relief from acceleration under its debt agreements. There are inherent uncertainties as the outcome of these negotiations and potential transactions described above are outside management's control, and therefore there are no assurances that management will be successful in these negotiations and that any of these potential transactions will occur. In addition, there can be no assurances that these transactions will sufficiently improve the Company's liquidity or that the Company will otherwise realize the anticipated benefits. The condensed consolidated financial statements do not include any adjustments to the carrying amounts and classification of assets, liabilities, and reported expenses that may be necessary if the Company were unable to continue as a going concern."³²

³² New Fortress Energy (2025b). *New Fortress Energy Inc. Form 10-Q*. Available at: <https://ir.newfortressenergy.com/static-files/a03eebc6-fdbd-48e8-b2f6-e929f290b419>.

Given these concerns, disclosed by NFE, we suggest that An Coimisiún Pleanála should undertake a review as to whether it is appropriate to grant any permissions until and unless these issues are resolved satisfactorily, given the huge scale and environmental sensitivity of the proposed project. Crucially, it seems highly counterproductive to make a company with the financial liabilities NFE that admits to, potentially responsible for the Government's proposed strategic reserve, as argued in the solicitors' letter, given the Government view that a reliable backup storage is needed to avert emergency situations.

4. Legal Context of Submission

A state-owned LNG project would not contravene EU law on market deregulation

In section 2.8 of the solicitor's letter, the applicant argues that not allowing a private entity to operate an LNG facility would be "an unlawful breach of European law on market deregulation", further elaborating in section 3. We refute this claim on a number of grounds:

- First, we note that EU treaties "clearly indicate that Member States choose the conditions for exploiting their energy resources and which energy sources they allow."³³ Paragraph 2, Article 194 of the Treaty on the Function of the European Union states: "Such measures shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to Article 192(2)(c)³⁴." Therefore the State should be free to control through its policy, including the ESR, the types of private projects it will grant permission to based on the needs of the public and long-term targets such as emissions reduction. As we have outlined throughout this submission, the Energy Security Review has concluded that commercial terminals are inferior in terms threatening Ireland's legally binding climate targets, potentially inducing additional gas demand, and not providing reliable gas storage for emergency purposes.
- In paragraphs 3.4 and 3.5 the applicant mischaracterises Article 31 of the 2024 Gas Directive.
 - First, Article 31 is not relevant for the matter at hand because this article is concerned with *access* to terminals while An Coimisiún Pleanála is concerned with *authorisation* of terminals. It's not of concern to ACP whether the rules that govern access to terminals are discriminatory and CRU would presumably be the relevant authority for that matter.
 - Paragraphs 3.4 and 3.5 misrepresent Article 31 in intimating that the state is somehow obligated to allow LNG terminals. Article 31 however does not create an obligation to authorise an LNG undertaking (cf article 194 cited above). Rather, Article 31 requires that, where an LNG terminal already exists, member states should ensure that market participants can access it. Article 31 is about accessing LNG terminals, not about authorising planning permission for LNG terminals in Ireland.

³³ O'Doherty, C. (2021). *Legal experts challenge claim that fracked gas import ban not possible*. Available at: <https://www.independent.ie/news/legal-experts-challenge-claim-that-fracked-gas-import-ban-not-possible/40450637.html>.

³⁴ European Union (2022). Consolidated version of the Treaty on the Functioning of the European Union. Available at: <http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:12008E194:EN:HTML>.