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The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
D01V902.

4th December 2020

By Hand

AN BORD PLEANÁLA	
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ABP-	_____
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Description of Development:

Substitute Consent application in relation to the Derrybrien Wind Farm Project located at Coppanagh, Slieveanore, Loughatorick North, Boleynneendorrish, Kilbeg, Toormacnevin, Funshadaun, Derrybrien North, Derrybrien South, Bohaboy, Derrybrien West, Derrybrien East, Derreenamucka, County Galway.
Gort Windfarms Limited
ABP-308019-20

Applicant:
ABP Case Number

A Chara,

We refer to your correspondence of 18th November 2020 providing copies of submissions / observations submitted to the Board in relation to the above application.

In order to assist the Board in its determination on this matter, we wish to submit - on behalf of the applicant Gort Windfarms Limited, our considered responses to items raised therein.

1.0 General Notes

Please note, in drafting our detailed response, the Applicant notes some submissions contain commentary in relation to the adequacy of the original environmental assessments and details provided therein. An application has been made on foot of a notice under section 177B of the Planning and Development Act 2000 as amended and a remedial Environmental Impact Assessment Report (rEIAR) has been submitted for the purpose of a remedial Environmental Impact Assessment to be carried out. Any such comments are deemed immaterial to the assessment that the Board will carry out at this time.

[illegible]

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2.0 Response to Submissions Circulated

2.1 Galway County Council Submission

The report of the Planning Authority is noted. The Applicant notes the assessment set out therein and largely concurs with the details set out in the report.

The Applicant has reviewed the conditions proposed for any consent the Board may issue and would largely accept those conditions. The Board is respectfully asked to review the details set out in **Condition No. 6** which relates to the means of decommissioning and site reinstatement. That condition states:

"6. On full or partial decommissioning of the wind farm, or if the wind farm ceases operation for a period of more than one year, the masts and turbines concerned, including foundations, shall be dismantled and removed from the site in accordance with a decommissioning programme that shall be submitted to and agreed in writing with the Planning Authority. The site shall be reinstated (including all internal access roads) and all decommissioned structures shall be removed within three months of decommissioning.

Reason: In the interest of amenity and orderly development in this scenic area."

The Applicant fully accepts the requirement for agreement on a decommissioning programme. However – in the context of information provided in the remedial Environmental Impact Assessment Report (rEIAR), the rationale for the decommissioning method set out therein – namely the removal of subsurface structures and access roads, is disputed.

The rEIAR Chapter 3 sets out the alternatives to the project and the main reasons for the options chosen. rEIAR Section 3.4.5 sets out alternatives with respect to decommissioning and remediation. The approach to decommissioning specified by Condition 6 as drafted by Galway County Council corresponds to the alternative described in rEIAR Section 3.4.5.1 – 'Decommissioning including removal of subsurface structures', with additional works including the removal of internal access roads. rEIAR Section 3.4.5.2 – 'Decommissioning leaving sub surface structures in-situ', describes a different approach – which is determined (rEIAR Section 3.4.5.2) to minimise environmental impact -the latter approach then being the emerging preferred approach. The Applicant respectfully refers the Board to that assessment and submits that the works described in Section 3.4.5.2 – namely decommissioning leaving sub-surface structures in situ, should be required by this condition.

In relation to the time needed to carry out decommissioning works, it is noted that such decommissioning works need to be carefully managed having regard to prevailing site conditions. The rEIAR Section 2.2.3.7 describes decommissioning as taking place over 24 months with an accompanying step-by-step chronology of actions – as set out in rEIAR Section 2.10. The rEIAR and remedial Natura Impact Statement (rNIS) set out a number of environmental controls that will be applied to manage activities during that time – noting such works will relate to various types of work sites – including the windfarm, the overhead line and the substation. It would not be reasonable to safely and properly carry out those works within



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the 3-month period proposed, and the 24-month period assessed in the documentation should be reflected in the final condition.

The Board are respectfully asked to consider Condition 6 and to amend the detail of the condition to require:

- Written agreement of a decommissioning programme with the Planning Authority on full or partial decommissioning of the wind farm, or if the wind farm ceases operation for a period of more than one year;
- Decommissioning works to remove only the above ground structures, leaving the wind turbine foundations, meteorological mast foundations and substation foundations in situ; with no active drain blocking; and access tracks, hardstands and areas of tree felling left in situ to naturally regenerate;
- All decommissioning works to be completed within a 24-month period.

2.2 Inland Fisheries Ireland Submission

The detailed report of the Inland Fisheries Ireland (IFI) is noted.

The Applicant acknowledges that the information provided in the submission regarding events surrounding and subsequent to the peat slide of October 2003, is in line with the information that has been included and comprehensively assessed in the rEIAR and rNIS.

The submission refers to 'the current WFD Risk Cycle 3 that indicates that the upper stretch (Owendalulleagh_010) has deteriorated and is at risk'. The Applicant would like to note that the River Waterbody Name referred to as Owendalulleagh_010 (EPA Station Code: RS29O010100) on the EPA Maps website was last monitored by the EPA in 1990, when it returned a Q4-5 High Status result. This site, which is situated in the very upper part of the Owendalulleagh River main channel (Irish Grid Reference: 165647, 203110), is upstream of any drainage from the Derrybrien Wind Farm.

The Applicant would also like to note that in every EPA river quality survey on the main channel of the Owendalulleagh River downstream of the confluence of the main tributary draining from the Derrybrien Wind Farm, every survey since and including 2006, including those of their most recent surveys from 2018 and 2019 have all returned High Status water quality results, either Q4-5 or Q5. The only exception to this trend was at the most downstream station on the river just upstream of Lough Cutra, which in 2006 returned a Q-rating of Q4, i.e. Good Status but in all surveys since then, including 2019 it has returned a High Status result. In their most recent publication on the state of the environment: *Ireland's Environment – An Integrated Assessment 2020*, (<http://www.epa.ie/ebooks/soe2020/>) which was published by the EPA in November 2020, the EPA note that the number of Q5 highest quality sites in Ireland has dropped from 500 to just 20 in the last 30 years. At least one of those sites has consistently been on the Owendalulleagh River, most recently in 2019 (Station Owendalulleagh_040).



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2.3 Mr. M. Mahony Submission

The submission comments on the level of public consultation carried out prior to the submission of this application is queried. The Board is respectfully referred to the details set out in Para. 2.4 of the Planning Report, and rEIAR Section 1.9 which set out the various means by which the general public were engaged throughout the history of the development of the Project. It is noted that - working within the prevailing public health advice, the Project Community Liaison Officer and dedicated project website remain active today – though a very low level of engagement has been reported.

The Applicant notes this submission queries the legal standing of the substitute consent process and refers to a number of Supreme Court cases. The submission suggests that in the decision of the Supreme Court in *An Taisce v. An Bord Pleanala* [2020] IESC 39 has 'struck down' the process by which the Board can grant substitute consent. It is also suggested that there is no lawful basis for the submission of an application for substitute consent following the decision. That is not correct.

The decision of the Supreme Court in *An Taisce v. An Bord Pleanala* [2020] IESC 39 concerned the validity of Section 177C(2)(a) of the Planning and Development Act 2000, section 177D(1)(a) of the Planning and Development Act 2000 and the entitlement of the public to participate in an application for leave to apply for substitute consent.

This application for substitute consent has been made under section 177E of the 2000 Act on foot of a Notice served by Galway County Council under section 177B of the 2000 Act. The decision in *An Taisce* does not relate to either section 177B or section 177E of the 2000 Act. There is nothing in the decision of the Supreme Court in *An Taisce* that precludes the Board from either considering the application for substitute consent or precludes the grant of substitute consent in respect of the Derrybrien Wind Farm. We refer the Board back to section 1.4.4 – 1.4.6 of the Planning Report submitted with the application.

2.4 Mr. M. Gallagher Submission

The Applicant notes this submission refers to the legal standing of the substitute consent process. The Applicant respectfully refers the Board to the response set out in the second to fourth paragraphs of Para. 2.3 above.

2.5 Mr. K. Deering & Mr. P. Crossan Submission

The Applicant notes this submission queries the legal standing of the substitute consent process. The Applicant respectfully refers the Board to the response set out in the second to fourth paragraphs of Para. 2.3 above.

2.6 An Taisce Submission

The Applicant notes this submission queries the legal standing of the substitute consent process. The Applicant respectfully refers the Board to the response set out in the second to fourth paragraphs of Para. 2.3 above.



2.1. The Board of Directors of the Corporation has the honor to acknowledge the receipt of your letter of the 15th day of January, 1910, in relation to the proposed amendment to the Charter of the Corporation, and in reply to inform you that the same has been referred to the Board of Directors for their consideration.

2.2. The Board of Directors of the Corporation has the honor to acknowledge the receipt of your letter of the 15th day of January, 1910, in relation to the proposed amendment to the Charter of the Corporation, and in reply to inform you that the same has been referred to the Board of Directors for their consideration.

2.3. The Board of Directors of the Corporation has the honor to acknowledge the receipt of your letter of the 15th day of January, 1910, in relation to the proposed amendment to the Charter of the Corporation, and in reply to inform you that the same has been referred to the Board of Directors for their consideration.

2.4. The Board of Directors of the Corporation has the honor to acknowledge the receipt of your letter of the 15th day of January, 1910, in relation to the proposed amendment to the Charter of the Corporation, and in reply to inform you that the same has been referred to the Board of Directors for their consideration.

2.5. The Board of Directors of the Corporation has the honor to acknowledge the receipt of your letter of the 15th day of January, 1910, in relation to the proposed amendment to the Charter of the Corporation, and in reply to inform you that the same has been referred to the Board of Directors for their consideration.

2.6. The Board of Directors of the Corporation has the honor to acknowledge the receipt of your letter of the 15th day of January, 1910, in relation to the proposed amendment to the Charter of the Corporation, and in reply to inform you that the same has been referred to the Board of Directors for their consideration.

2.7. The Board of Directors of the Corporation has the honor to acknowledge the receipt of your letter of the 15th day of January, 1910, in relation to the proposed amendment to the Charter of the Corporation, and in reply to inform you that the same has been referred to the Board of Directors for their consideration.

2.7 Mr. M. Collins Submission

The Applicant has reviewed this submission and the attached documents. The following responses deal with the points raised, grouping those into relevant themes where possible and – for clarity, linking with the submission by way of reference to page number.

This submission queries the legal standing of the substitute consent process (submission pages 1-2). The Applicant respectfully refers the Board to the response set out in the second to fourth paragraphs of Para. 2.3 above.

This submission queries adequacy of public consultation in advance of this application being made (submission pages 3-4). The Applicant respectfully refers the Board to the response set out in the first paragraph of Para. 2.3 above.

This submission queries the extent of documentation submitted in support of the application for substitute consent (submission page 4). The Application was made in compliance with the requirements of the Planning and Development Acts and covers the entire lifecycle of the project - from construction to decommissioning phases as set out in rEIAR, Chapter 1. The Applicant submits that this level of assessment was necessary to ensure that the rEIAR and rNIS supported a thorough evaluation and assessment of the project during all phases.

This submission queries the reference to the findings of no adverse effect in the assessment of impacts (submission pages 4-5). The Applicant confirms that assessments provided in the rEIAR Chapters 4 to 17 and the rNIS are comprehensive in nature and reflect best practice guidance and scientific evidence to support the conclusions as set out in each chapter.

This submission states that conclusions set out in the rEIAR appear to conflict with the findings of the 2015 National Survey of the Hen Harrier (submission pages 4-5 and 19-25) which have shown a decline in the Hen Harrier population in the Slieve Aughty Special Protection Area (SPA) since 2005. The rNIS Section 5.2.1.1 describes the wide range of factors potentially affecting the Hen Harrier breeding population within the Slieve Aughty Mountains SPA - including those described by Ruddock et al. (2016) as cited in the *2015 National Survey of Breeding Hen Harrier in Ireland* report.

The rNIS Section 5.5.1.1 describes how the alteration of habitat within the site from forestry to open upland habitat following the construction of the wind farm is considered to have resulted in a positive long-term effect for Hen Harriers in the SPA. Section 5.5.1.1 and Section 5.5.1.3 of the rNIS describe the effects of the project on the Hen Harrier population in the SPA taking into account all factors described in Section 5.2.1.1. The evidence presented supports the conclusion of no significant adverse effects on the Slieve Aughty Mountains SPA in both the rEIAR and the rNIS

This submission queries the adequacy of the site notices and the process whereby the content of those notices was submitted to An Bord Pleanála in advance of publication and erection on site (submission pages 5-8). The Applicant submits that the notices fully comply with the requirements under the Planning and Development Act and Regulations, as amended, and that



The first part of the report (pages 1-10) provides a general overview of the situation in the country. It discusses the political, economic, and social conditions, as well as the role of the government and the people. The second part (pages 11-20) focuses on the specific issues that are the subject of the report, such as the environment, health, and education. The third part (pages 21-30) contains the conclusions and recommendations of the study.

The report is written in a clear and concise style, and it is well organized. It provides a good overview of the situation in the country, and it identifies the key issues that need to be addressed. The conclusions and recommendations are based on a thorough analysis of the data, and they are realistic and achievable.

The report is a valuable contribution to the understanding of the situation in the country. It provides a clear and concise overview of the political, economic, and social conditions, and it identifies the key issues that need to be addressed. The conclusions and recommendations are based on a thorough analysis of the data, and they are realistic and achievable.

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all appropriate processes were followed. The Applicant notes the broad range of activities described under Item (3) of the description of development and confirms that all such activities are correctly described as ‘ancillary’ – those being activities carried out to facilitate the primary activity – namely to construct a wind farm that was connected to the national grid.

This submission refers to the reference to other consents including a waste licence (submission page 7). It is the intention of the Applicant to ensure all appropriate licences are put in place as required by the Waste Legislation and this is clearly reflected in the public notices.

This submission refers extensively to the adequacy of the environmental assessments carried out in relation to the original planning applications (submission pages 8-11). As set out in Para. 1.4.3 of the Planning Report the judgments of the Court of Justice of the European Union (CJEU) in cases C-215/06 and C-261/18 have predated this new assessment process so this commentary on historic assessments, and the adequacy of same, is immaterial to this process.

This submission refers to a 2009 Supreme Court appeal ([2015] IESC 77) by the Derrybrien Development Society Limited (submission page 10) of the 2005 decision of Dunne J in which the High Court refused an application pursuant to s160 of the Planning and Development Act as amended. Dunne J refused the application concluding that:

“....on a reading of the Environmental Impact Statements attached to the various permissions it was quite clear that the proposed development envisaged the removal of the forestry thereon and the change of use on the lands from forestry to use as a wind farm...”.[[2005] IEHC 485).

The subsequent appeal was dismissed in the Supreme Court and no orders were made by the Court.

This submission refers to the historic assessment of the planning applications enabling the development of the Project (submission pages 12-25 and 27-33). It is respectfully submitted that this commentary is immaterial to this process as does not relate to the rEIAR or rNIS now before the Board.

The submission refers to ongoing bird surveys on the site using specially trained dogs (submission page 25). The Applicant can confirm surveys using dogs have been carried out, though they are in fact for the collation of information on bat fatalities. All such ecological studies are on-going and, where available this data has been included in the rEIAR, as presented in rEIAR Section 7.3.6.3.3. Details of the specialists who have undertaken these surveys are presented in rEIAR Section 7.2.6.3.2.

This submission refers to the baseline year (1998) for environmental impact assessment (submission page 25). It is confirmed that this is the stated baseline used. Throughout the assessment documentation a robust description of conditions that prevailed at that time is provided. The Board are respectfully referred to the relevant descriptions in rEIAR Chapter 2, and each of the assessment chapters - rEIAR Chapter 4 to 17.



of appropriate processes were followed. The Applicant notes the broad range of activities described under item (3) of the description of development and confirms that all such activities are correctly described as 'ancillary' – those being activities carried out to facilitate the primary activity – namely to construct a wind farm that was connected to the national grid.

This submission refers to the reference to other consents including a waste licence (submission page 7). It is the intention of the Applicant to ensure all appropriate licences are put in place as required by the Waste Legislation and this is clearly reflected in the public notices.

This submission refers extensively to the adequacy of the environmental assessments carried out in relation to the original planning applications (submission pages 8-11). As set out in Para. 1.4.3 of the Planning Report the judgments of the Court of Justice of the European Union (CJEU) in cases C-215/06 and C-261/08 have precluded the new assessment process as this commentary on historic assessments, and the adequacy of same, is immaterial to this process.

This submission refers to a 2009 Supreme Court appeal (2009 SC 77) by the Edinburgh Development Agency (EDA) (submission page 10) of the 2006 decision in *Thames Valley* which the High Court refused an application pursuant to s180 of the Planning and Development Act 2007. The Court found that the application concluding that

“...on a reading of the Environmental Impact Statements attached to the various planning applications, it was clear that the proposed development envisaged the removal of the forestry from the site and the change of use of the lands from forestry to use as a wind farm.” (2009 SC 77, para 48)

The subsequent appeal was dismissed in the Supreme Court and no orders were made by the Court.

This submission refers to the historic assessment of the planning applications enabling the development of the Project (submission pages 12-25 and 27-32). It is respectfully submitted that this commentary is immaterial to this process as does not relate to the EIA or this Court before the Board.

The submission refers to ongoing bird surveys on the site using specially trained dogs (submission page 30). The Applicant can confirm surveys using dogs have been carried out (though they are not for the collection of information on bat habitats. All such ecological studies are on-going and where available this data has been included in the EIA, as presented in EIA Part Section 7.3.2. Details of the species which were undertaken these surveys are presented in EIA Part Section 7.3.2.2.

This submission refers to the baseline year (1992) for environmental impact assessment (submission page 28). It is submitted that this is the stated baseline used. Through the assessment documentation a robust description of conditions that prevailed at that time is provided. The Board are respectfully referred to the relevant chapters in EIA Part Chapter 4 and each of the assessment chapters - EIA Part Chapter 4 to 12.

This submission contains references to policies set out in the County Development Plans for County Galway from 1997 to present day (submission pages 26 to 27). The Applicant respectfully notes that the Board's determination of this application will be in the context of the prevailing County Development Plan and refers to Paras. 4.5 and 4.6 of the Planning Report submitted and the assessment of the Planning Authority (GCC submission pages 10 – 13).

This submission refers to the 'load factor' for the wind farm inferring that this is an indication that the development is deficient (submission page 33). The Board is respectfully referred to the commentary in relation to the development provided in rEIAR, Section 2.8.3 which noted that the wind farm development has an average annual capacity factor of c.25% - that being 25% of the theoretical maximum output reflecting the wind resource and installation location. The Applicant submits that such factors are typical of similar developments and are not an indication of any deficiency. In support of this is it noted that:

- the Irish Wind Energy Association (IWEA) states in its Frequently Asked Questions (FAQ) on Wind Energy Technology (<http://www.iwea.ie/index.cfm/page/technicalfaq?#q26>) that: *"A modern wind turbine produces electricity 90-95% of the time, but it generates different amounts depending on wind speed. Over the course of a year, it will generate about 31% of the theoretical maximum output. This is known as its capacity factor. By comparison the capacity factor of conventional power stations is on average 50%", and)*
- the Sustainable Energy Authority of Ireland (SEAI) noted in its publication Energy in Ireland 2019 Report (<https://www.seai.ie/publications/Energy-in-Ireland-2019-.pdf>) stated (Section 6.1.1): that *"The average countrywide wind capacity factor was 30% in 2005 but fell to 24% in 2010 largely due to it being a low wind year compared with historic average levels.The wind capacity factor increased to 28% in 2017 and maintained that level in 2018".*

This submission queries the alternatives considered (submission page 33; 41 - 42). The Applicant notes that the consideration of alternatives was prepared in compliance with the requirements under the EIA Directive and relevant guidance. Repowering is an alternative that is considered for any existing windfarm development – and it is noted that any such proposal would be subject of new and separate development consents. Any such proposals are not subject of this assessment or application. In relation to the decommissioning date of 2040, it is noted that there is, under the existing consent, no end date for the operation of the wind farm. For the purposes of the environmental assessment, and in-line with prevailing practice, the duration of activity phases was defined in the rEIAR and an operational wind farm life of 35 years was arrived at based on various technical considerations, resulting in identification of 2040 as a likely year for decommissioning. This is as described in rEIAR Section 2.9 and in Section 2.10.1. The Applicant notes that the submission states the option of removing the wind farm was not assessed. The Board are respectfully referred to rEIAR Section 3.4.1 which specifically refers to the 'do-nothing' option - that being to cease operation and move to immediate decommissioning. The assessment of impacts associated with decommissioning of the project is provided in detail in Chapter 4 to Chapter 17 inclusive and addresses all aspects of the environment.

This submission refers to drainage and the Flood Risk Assessment carried out as part of the rEIAR (submission pages 34-41). The submission refers to a historic assessment / report and states – without specific reference to the subject rEIAR, and concludes that the assessment (the historic assessment) is flawed. For clarity none of the text in that section refers to the rEIAR currently before the Board. The assessment set out in rEIAR Chapter 11 and its appendices, as they relate to drainage therein stands.

This submission refers to barrages (submission pages 42-43). The Board are respectfully referred to the detailed commentary in rEIAR – in particular Sections 2.6.7, 2.7.3 and 2.10.1 therein, which describe these elements, their function, construction and decommissioning.

This submission refers to the operation of the Community Benefit Fund (submission pages 43-45). The Board are respectfully referred to rEIAR Section 4.3.1.5 which sets out details in relation to the Community Benefit Fund. It is confirmed that the fund is independently managed and available to fund projects both within the locality (10km of the development) and wider – where such projects demonstrably meet a current or prospective need/issue/opportunity relating to the wind farm communities within the area of benefit. It is noted that reference is made to the Renewable Energy Support Scheme RESS 1 fund being based on €2000 per MW. As stated on the SEAI RESS website (<https://www.seai.ie/community-energy/ress/>) the Community Benefit Support Scheme 1 requires that a “mandatory Community Benefit Fund must be provided by all projects successful in a RESS auction.” The contribution is to be set at €2 for every MW hour produced and not €2000 per MW. The RESS 1 Auction ran in July 2020 and Derrybrien is not listed as a successful RESS 1 Project. The contribution rate of €2/MWh does not therefore apply.

This submission refers to legal judgments that predated the issuing of the Notice under s177B of the Planning Acts, by Galway County Council (submission pages 45-49) and historic planning compliance (submission pages 50- 54). The Applicant notes that this commentary relates to historic cases and no additional comments are needed.

This submission refers to the level of CO₂ emissions associated with the development and the finding in the rEIAR of “no significant adverse effects” (submission page 49 to 50). The Board is respectfully referred to the calculation of CO₂ emissions and displacement of such emissions from thermal generation plant set out in rEIAR Chapter 12, and rEIAR Section 12.4.6 which considers impacts on Climate Change. Those calculations took account of the carbon cost of the overall development (including from the construction of the windfarm including drainage, forest felling and replanting, the displacement of peat during the peat slide event) and the time necessary to “pay back” the carbon cost - based on the accrued benefits of the displacement of fossil fuel electricity by the renewable electricity generated by Derrybrien. The Applicant notes that those calculations demonstrate that the wind farm has displaced more carbon than the carbon cost of its development (including the slide event) with a nett positive contribution to reducing greenhouse gas emissions and combating climate change. The Applicant can confirm that the findings of this assessment are unchanged.

2.8 Friends of the Derrybrien Environment Submission

It is noted that this submission raises issues similar to those posed in the submission of Mr. M Collins. The Applicant respectfully refers the Board to the responses set out in Para. 2.7 above.

2.9 Mr. D Murray Submission

This submission queries the adequacy of the Flood Risk Assessment (FRA) that has been carried out (submission pages 4-6) - specifically referring to rEIAR Chapter 11 and Appendix 11A. Regarding historic flooding, it is stated that desk review of floodinfo.ie data was primarily used and this approach is criticised. The Applicant can clarify the word 'primarily' s used here to mean 'in the first place', not 'for the most part' as has been interpreted. It was the starting point of the review of historic flooding. The history of flooding downstream in the Gort Lowlands is discussed comprehensively in rEIAR Appendix 11B – 'Flooding Assessment of the Derrybrien Wind Farm Project on Turlough Flooding in the Gort Lowlands Catchment' and the Applicant respectfully refers the Board to the relevant passage in the Flood Risk Assessment, i.e. "*The history of flooding in the Gort Lowlands area is discussed in detail in Appendix B.*" The Applicant submits that this addresses any inference that the report is 'incomplete'.

The submission states that the nearest areas downstream affected by extensive flooding are 10-12 km away (submission page 4) stating that the FRA is incorrect in stating the nearest area affected by extensive flooding is 20 km *downstream*. The Applicant notes that the 10-12 km distance is indeed the straight-line distance between the wind farm and the points noted as prone to extensive flooding. However, following the winding path of the rivers, which is a more relevant measure for the purposes of this analysis, the distance is much longer as noted in the report.

The submission queries adequacy of public consultation in advance of this application being made (submission pages 4-5). The Applicant respectfully refers the Board to the response set out in the first paragraph of Para. 2.3 above. The Applicant notes that reference is made to the availability of information by the South Galway Flood Relief Committee. As set out in rEIAR, Section 11.1.5 the hydrology and hydrogeology assessment was carried out in accordance with a prescribed methodology and utilising specific data sets. Where any difficulties were encountered, they are described in rEIAR Section 11.1.6. Based on the experience and expertise of the Assessors, it was considered that the data that was available was adequate to carry out the assessment.

The submission states that the cumulative effect of forestry felling has not been considered in either the rEIAR or FRA (submission, pages 6-7 and 9). The Applicant can confirm that this is incorrect. The Board are assured that the impact of felling not associated directly with the wind farm project has been considered as a cumulative project/activity. The Board is respectfully referred to rEIAR Section 11.4.1.4, page 11-79, and Section 11.4.2.2, page 11-84. It is noted that the effects of felling in adjacent coniferous plantations during construction stage were deemed - at worst, to be slight, short-term and local in nature, they were not considered further in the flood risk assessment.



2.6. Friends of the Deyvhen Environment Submission

It is noted that this submission raises issues similar to those posed in the submission of Mr. M. Collins. The Applicant respectfully refers the Board to the responses set out in Para. 2.3 above.

2.7. Mr. D. Murray Submission

This submission queries the adequacy of the Flood Risk Assessment (FRA) that has been carried out (submission pages 4-6) - specifically relating to CEIAR Chapter 11 and Appendix 11A. Regarding historic flooding it is stated that desk review of floodable data was primarily used and this approach is criticised. The Applicant can clarify the way this data is used here to mean 'in the first place', not 'for the most part' as has been interpreted. It was the starting point of the review of historic flooding. The history of flooding downstream in the Gort Lowlands is discussed comprehensively in CEIAR Appendix 11B - Flooding Assessment of the Deyvhen Wind Farm Project. Through Flooding in the Gort Lowlands Catchment, and the Applicant respectfully refers the Board to the relevant passage in the Flood Risk Assessment (FRA). The Applicant notes that the Gort Lowlands area is discussed in detail in Appendix B. The Applicant notes that any reference to the report is 'incomplete'.

The submission states that the nearest areas downstream affected by extensive flooding are 10-15 km downstream. The Applicant notes that the FRA is intended to study the nearest areas affected by extensive flooding (0-20 km downstream). The Applicant notes that the FRA notes as follows: 'The straight-line distance between the wind farm and the point nearest to the extensive flooding is 10-15 km, however, following the winding path of the river, which is a more relevant measure for the purpose of this analysis, the distance is much longer as noted in the report'.

The submission queries adequacy of public consultation in advance of this application being made (submission pages 4-6). The Applicant respectfully refers the Board to the response set out in the first paragraph of Para. 2.3 above. The Applicant notes that reference is made to the availability of information by the South Galway Flood Relief Committee. As set out in CEIAR, Section 11.1.2 the hydrology and hydrogeology assessment was carried out in accordance with a prescribed methodology and utilising specific data sets. Where any difficulties were encountered, they are described in CEIAR Section 11.1.6. Based on the experience and expertise of the Assessor, it was considered that the data that was available was adequate to carry out the assessment.

The submission states that the cumulative effect of forestry felling has not been considered in either the CEIAR or FRA (submission pages 6-7 and 9). The Applicant can confirm that this is incorrect. The Board are assured that the impact of felling not associated directly with the wind farm project has been considered as a cumulative project. The Board is respectfully referred to CEIAR Section 11.4.1A, page 11-79, and Section 11.4.2.2, page 11-84. It is noted that the effects of felling in adjacent catchment plantations during construction stage were deemed - at worst - to be slight short-term and local in nature, they were not considered further in the flood risk assessment.

The submission states that the precautionary principle should guide the FRA with respect to the estimated impacts of tree felling (submission page 8, para 3). The Applicant respectfully refers the Board to the approach outlined in rEIAR Appendix 11A, 60 to 68, where the methodology is clearly outlined and notes the approach is indeed guided by said principle. The Applicant further confirms to the Board that a number of important conservative assumptions have been made as set out therein (e.g. paragraphs 1 and 3, page 11A-64).

The submission refers to the need for mitigation measures to address the impact of increased flows (submission page 9, page 14). The Applicant notes the assumption of such impacts arising is flawed and not supported by the assessment. The Board are respectfully referred to rEIAR Chapter 11 which clearly concludes that the effects in relation to flood risk downstream of the site is Not Significant (see rEIAR Table 11-12). Per the requirements cited on page 14 of the submission, mitigation measures are only required where necessary to address a significant adverse effect on the environment. Simply, where no such impact arises, no such measures are required. The robustness of this conclusion is not in any way challenged by the submission.

It may be of interest to the Board to note that, since the submission of this application, the findings of an independent study have been published by Trinity College Dublin (TCD), in collaboration with the Geological Survey of Ireland (GSI), entitled "*Land use changes, flood alleviation options and the associated impacts on the Gort Lowland Karst Catchment in Co. Galway*". The report concludes:

"... whilst the land use changes in the (Slieve Aughty) mountains may have changed peak flood hydrographs in the rivers flowing off the mountains, this impact does not change the manner in which severe flooding occurs in the turloughs across the Gort lowlands. This is mainly due to the extremely large volumes of cumulative discharge involved during the 1% AEP flood event and the limiting drainage rate of the bedrock karst system."

The TCD/GSI study investigated a number of different approaches to mitigating flooding in the Gort Lowlands and notably did not look at implementing mitigation measures as far upstream as the Slieve Aughty mountains and asserts the following with respect to the development area: *"... it is considered that the development area relative to the size of the catchment is insignificant (<2.5%) and that given the lack of data it is not prudent to attempt to expressly model their impacts within this assessment as results would likely be inconclusive."*

This study – which is completely independent of the assessment carried out by the Applicant, corroborates the conclusions reached in the rEIAR and provides, for the consideration of the Board, verification of the assessment submitted.

In relation to the sizing of drains on site, the submission states that the size of drains is understated (submission Page 10). The Applicant respectfully refers the Board to the detail set out in the rEIAR – see rEIAR Figure 11.14, and confirms that the drains constructed for the wind farm were typically smaller, often significantly smaller, than those pre-existing channels draining the turbary land on the eastern end of the site.



The submission states that the precautionary principle should guide the FRA with respect to the estimated impacts of bedfasting (submission page 8, para 3). The Applicant respectfully refers to the Board to the approach outlined in EIA Appendix 1A, 80 to 88, where the methodology is clearly defined and where the approach is indeed guided by said principle. The Applicant further confirms to the Board that a number of important conservative assumptions have been made as set out in the (a) paragraphs 7 and 8, page 1A-84.

The submission refers to the need for mitigation measures to address the impact of increased flows (submission page 9, para 14). The Applicant notes the assumption of such impacts arising is flawed and not supported by the assessment. The Board are respectfully referred to EIA Chapter 11 which clearly concludes that the effects in relation to flood risk downstream of the site is not significant (see EIA Table 11-12). For the requirements cited on page 14 of the submission, mitigation measures are only required where necessary to address a significant adverse effect on the environment. Namely, where such impact arises, no such measures are required. The robustness of this conclusion is not in any way challenged by the submission.

It may be of interest to the Board to note that, since the submission of this application, the findings of an independent study have been published by Trinity College Dublin (TCD) in collaboration with the Geological Survey of Ireland (GSI), entitled 'Land use changes, flood affected catchments and the impact on the Great Dublin River Catchment in Co. Galway'. The report concludes:

"... whilst the land use changes in the (Slieve Donard) mountains may have changed peak flood hydrographs in the lower reaches of the mountains, this impact does not change the manner in which major flooding occurs in the catchments across the Great Downlands. This is because the extremely large volumes of cumulative discharge generated during the 1974 event and the limited drainage rate of the bedrock karst system."

The TCD/GSI study investigated a number of different approaches to mitigating flooding in the Great Downlands and notably did not look at implementing mitigation measures as far upstream as the Slieve Donard mountains and assesses the following with respect to the development: "... it is considered that the development area relative to the size of the catchment is insignificant (<2.5%) and that given the lack of data it is not prudent to attempt to expressly model the impacts within this assessment as results would likely be inconclusive". The study – which is completely independent of the assessment carried out by the Applicant, corroborates the conclusions reached in the EIA and provided for the consideration of the Board, verification of the assessment submitted.

In relation to the sizing of drains on site, the submission states that the size of drains is understated (submission page 10). The Applicant respectfully refers to the Board to the detail set out in the EIA – see EIA Figure 11-14, and confirms that the drains constructed for the wind farm were typically smaller, often significantly smaller, than those pre-existing channels draining the nearby land to the east and the site.



This submission queries conclusions reached in relation to the potential impact on the Coole-Garryland Complex SAC stating the impact on silting has not been adequately assessed (submission page 12). The Applicant respectfully refers the Board to rNIS Sections 4.5.14 to 4.5.17 which provides an appropriately detailed assessment of the effects of siltation on the Coole-Garryland SAC (000252) and other related turlough SACs downstream. The Applicant confirms that the findings of this assessment are accurate.

The Applicant notes this submission queries the legal standing of the substitute consent process (submission page 15). The Applicant respectfully refers the Board to the response set out in the second to fourth paragraphs of Para. 2.3 above.

3.0 A Note in relation to the convening of an Oral Hearing

It is noted that 3 No. third parties have requested an Oral Hearing on this matter. We believe the principle purpose of an Oral Hearing is to facilitate further discussion and examination of relevant issues that may arise in an application being considered by the Board. Having regard to the extensive information provided in support of this application; the report of the Planning Authority; the nature of the submissions received and our response to same, the Applicant respectfully submits that sufficient information has been presented to the Board to enable it to reach a decision on this matter and it is not necessary to convene an Oral Hearing.

4.0 Concluding Remarks

We appreciate the Board's consideration of this submission and trust that it addresses points raised.

We look forward to acknowledgement of this submission and receipt of your decision in due course.

Is mise le meas,

Helen O'Keeffe, BE MRUP MSC MIEI MIPI
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