

## Planning Report

Meenbog Wind Farm,  
Co. Donegal - Substitute  
Consent Application





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# 1. INTRODUCTION

MKO has been appointed by Planree Ltd, ('the Applicant'), to prepare and lodge this application for substitute consent with An Bord Pleanála (the 'Board') in relation to 25 deviations to the permitted Meenbog wind farm. The description of development for which substitute consent is being applied for (the Subject Development) is:

*“Deviations from the wind farm permitted under ABP-300460-17 (amended by ABP-303729-19). The deviations relate to wind farm roads and hardstand areas, peat management measures, borrow pits, site drainage measures, and all ancillary works.”*

This Planning Application is accompanied by a remedial Environmental Impact Assessment (rEIA) and remedial Natura Impact Statement (rNIS). Both the rEIA and rNIS include assessments of the 25 deviations cumulatively, and the in combination effects with the as-built elements of the wind farm, the permitted wind farm not yet completed, and works carried out following an on-site peat slide (to mitigate its effects).

The Board granted planning permission via the Strategic Infrastructure Development (SID) process to the Applicant for a 19-turbine wind farm development in Meenbog, Co. Donegal (ABP Ref: PA05E.300460) on 25<sup>th</sup> June 2018 (as amended by ABP Ref-303729 which allowed for turbines with a larger rotor diameter) (“the Permitted Development”).

The Permitted Development and the Subject Development collectively are hereinafter referred to as the “Meenbog Wind Farm”.

The Meenbog Wind Farm site is located approximately 8km southwest of the twin towns of Ballybofey and Stranorlar and approximately 12km northeast of Donegal Town.

In accordance with Section 177C(2)(b) of the Planning and Development Act, 2000 (as amended) (“the Act”) on 8<sup>th</sup> July 2022, an application for Leave to Apply for Substitute Consent was made to the Board which demonstrated that the Subject Development satisfied the ‘exceptional circumstances’ test and permission was granted to the Applicant to apply for substitute consent for the Subject Development (ABP Ref: ABP-314062-22).

In accordance with Section 177C(2)(b) of the Act, an application for Leave to Apply for Substitute Consent was made to the Board which demonstrated that the Subject Development satisfied the ‘exceptional circumstances’ test and permission was granted to the Applicant to apply for substitute consent for the Subject Development (ABP Ref: ABP-314062-22).

The decision to grant the Leave to Apply for Substitute Consent was made by An Bord Pleanála on 16<sup>th</sup> October 2023 (as outlined in **Appendix 1** of this report), and the subsequent grant of an extension of time period to lodge this application in accordance with Section 177E(4) was granted on 12<sup>th</sup> January 2024 (as outlined in **Appendix 2** of this report). The Board granted this extension under section 177E of the Act, for a further period until 2<sup>nd</sup> April 2024.

The Permitted Development is partially complete and therefore, substitute consent is being sought under Section 177E only for those deviations from the Permitted Development which have been completed without the benefit of planning permission. The works associated with the permitted wind farm development are not subject to this substitute consent application.

This application for substitute consent is being made with the benefit of Section 41(12) of the Planning and Development, Maritime and Valuation (Amendment) Act 2022 (“the 2022 Act”), which provides for an application for substitute consent being made under section 177E of the Act, pursuant to leave to apply for substitute consent being granted under section 177D before the date of the coming into

operation of sections 26 to 40 of the 2022 Act, being considered in accordance with the Act as if those sections had not come into operation.

The primary reason for the Subject Development arising in the first instance relates to the need to often make adjustments to the infrastructure as presented in the planning application drawings for the Permitted Development in response to actual conditions encountered on the ground, during the construction of the Permitted Development. In large-scale strategic infrastructure and civil engineering projects, some deviations from planning-stage designs are not unusual due to the greater level of detail required for the preparation of detailed engineering and construction designs prior to construction, or to adapt to ground conditions encountered on-site. The project engineers often recommend and implement slight modifications in order to improve the safety and constructability of the development as and when circumstances, unforeseen at planning level, dictate. These circumstances often do not become apparent until construction has commenced.

A review of national, regional and local planning policies was undertaken in the context of the assessment of the Subject Development. The permitted wind farm development was granted planning permission in 2018 and as such the principle of the wind energy development in this location is not under consideration as part of this application or within the rEIAR or rNIS. Policy support for the continued deployment of renewable energy developments continues to exist at all levels of the planning policy hierarchy. The Subject Development, to which this Substitute consent application relates, aligns with this policy support against the backdrop of a consented wind energy development.

The Meenbog Wind Farm, as constructed to-date, including the Subject Development, is consistent in terms of the nature, scale, and extent of impacts on the environment as assessed in the EIAR for the Permitted Development ("the Submitted EIAR") and the NIS for the Permitted Development ("the Submitted NIS"), and as assessed in the EIA and AA previously undertaken by the Board. The deviations which form the Subject Development occur in similar habitats and locations to the previously assessed and permitted plans. Therefore, the Subject Development does not significantly change the nature or scale of the Permitted Development, and does not materially alter the environmental impacts associated with the Permitted Development.

The Subject Development facilitates the construction and operation of the Permitted Development, thereby ensuring its successful operation for its 25-year permitted period. If fully operational today, the Meenbog Wind Farm would be amongst the five largest operating wind farms in Ireland, and would thereby make a significant contribution to increased renewable energy outputs, and consequently towards meeting future renewable energy, climate change and emissions reductions targets.

2.

## SITE CONTEXT

The site of the Meenbog Wind Farm is located at Meenbog, Croaghonagh and other townlands (associated with the wind farm’s off-site grid connection), approximately 8km southwest of the twin towns of Ballybofey and Stranorlar and approximately 12km northeast of Donegal Town (“the Site”). The Site adjoins County Tyrone and is located approximately 19km west of Castleterg. A site location map is presented in **Figure 1** below.

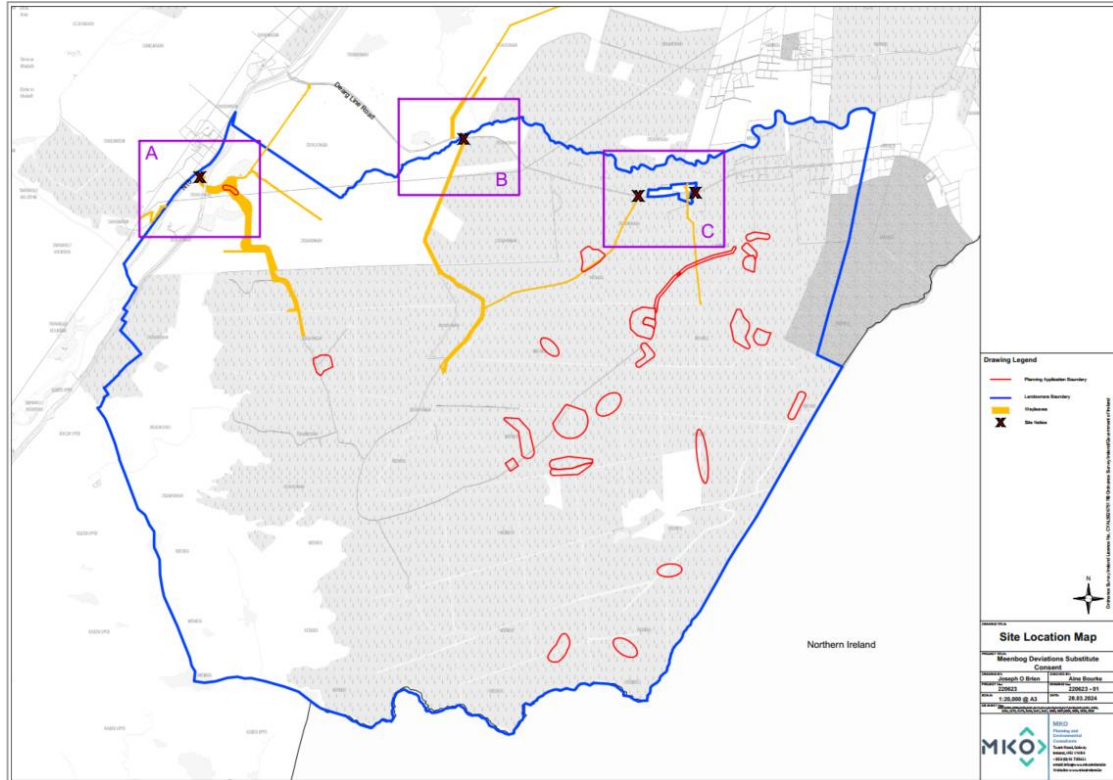


Figure 1: Site Location. Source: Site Location Map as prepared by MKO (DWG No.: 220623-01)

The Site is dominated by the largely-constructed and permitted Meenbog Wind Farm infrastructure and commercial forestry plantations that have been planted over blanket bog. The elevation of the Site ranges between approximately 86 metres O.D. and 327 metres O.D. with the majority of the Site sloping in a north or north-westerly direction. A small section on the south of the site slopes to the southeast. The Site adjoins Northern Ireland border along its eastern and south-eastern boundaries.

There is a network of long-established existing forestry roads providing access in and around the site. The Site drains directly to the Bunadownen River and the Shruhangerve River which are tributaries of the Mourne Beg River. The closest Natura 2000 site is the River Finn, Special Area of Conservation (SAC). The River Finn SAC runs along the south-eastern boundary of the Site and forms the County boundary between Donegal and Tyrone. The SAC follows the river network established by the River Finn and its tributaries which flow along the border with and within County Tyrone in Northern Ireland, as well as flowing through Ballybofey/Stranorlar. Natural Heritage Areas (NHAs) can be found to the west of the study area. These areas are Lough Hill Bog NHA, Meenagarranroe Bog NHA, Cashelnavene NHA, Barnesmore Bog NHA and Croaghonagh bog which is a proposed NHA and SAC. Croagh Bog, an Area of Special Scientific Interest (ASSI) runs along a portion of the southern boundary of the Site. The River Foyle (ASSI), Killester Forest, Bogs and Lakes (ASSI) and Essan, Burn and Moneyfarmore (ASSI) can be found further south of the study area in County Tyrone.

Construction work commenced on the Meenbog Wind Farm in November 2019. Approximately 90% of the civil engineering works, including wind farm access roads, electricity substation, turbine hardstands,

turbine bases, peat repositories and borrow pit areas at the Site were substantially completed over the following 12-month period up to November 2020.

On 12<sup>th</sup> November 2020, during the construction of a permitted access road to turbine T7, a peat slide or peat failure occurred. The works that were underway at the time in the area where the peat slide occurred, were fully permitted and were being undertaken in line with the project design that had been subject to both Environmental Impact Assessment (EIA) and Appropriate Assessment (AA). The Environmental Protection Agency (EPA) engaged the services of ARUP Consulting Engineers, to advise and represent the EPA on the geotechnical and peat stability aspects of its investigations into the peat slide. Following extensive additional site investigation work, geotechnical analysis, site meetings and/or reporting undertaken by both Fehily Timoney and Company (FTC) and Ionic Consulting on behalf of Planree Ltd, and ARUP on behalf of the EPA, the EPA, by notice dated 28<sup>th</sup> September 2021, concluded that the issues identified had been satisfactorily addressed pursuant to the Environmental Liability Regulations.

Following the November 2020 peat failure, a detailed retrospective comparison between what had been built and what was permitted, was undertaken by Planree Ltd. and by Donegal County Council (DCC). Planree Ltd. also engaged MKO to prepare an Environmental Report (ER) to consider and assess the effect of identified deviations, individually and cumulatively. In April 2022, DCC took the advice of SLR Consulting Limited (SLR) and concluded that there were a number of deviations from the original planning permission that required regularisation via the substitute consent process. This application is made at the request of DCC.

For the avoidance of doubt, in the time since the November 2020 peat failure at the Site, and following investigations by DCC (and SLR on their behalf), EPA (and ARUP on their behalf) and Planree Ltd (and FTC and Ionic on their behalf), nothing has emerged to suggest that any deviation from the original Permitted Development was in any way responsible for the peat failure event.

### 3. PROJECT HISTORY

#### 3.1 Permitted Development Planning History

Planning permission was granted under the Strategic Infrastructure Development (SID) process by the Board (ABP Ref: PA05E.300460) on 25<sup>th</sup> June 2018, for a 19 no. turbine wind farm development in Meenbog (and surrounding townlands), Co. Donegal, subject to 20 no. conditions.

The full development description of the Permitted Development is set out as follows:

*“In accordance with Section 37E of the Planning and Development Act 2000, as amended, Planree Limited gives notice of its intention to make an application for a ten year planning permission to An Bord Pleanála in relation to the following proposed Development in the townlands of Meenbog (ED Goland), Croaghonagh and Cashelnavean, County Donegal.*

*The proposed development will constitute the provision of the following:*

- (i) Up to 19 no. wind turbines with a generating capacity in excess of 50MW, and maximum overall ground to blade tip heights of up to 156.5 metres;*
- (ii) 1 no. permanent Meteorological Mast up to a maximum height of 110 metres;*
- (iii) 1 no. 110kV Electrical substation with 2 no. control buildings with welfare facilities, associated electrical plant and equipment, security fencing and waste water holding tank;*
- (iv) Internal wind farm underground cabling;*
- (v) 110kV underground grid connection cabling;*
- (vi) Upgrade of access junctions;*
- (vii) Upgrade of existing tracks, roads and provision of new site access roads and hardstand areas;*
- (viii) 3 no. borrow pits;*
- (ix) 2 no. temporary construction compounds;*
- (x) Recreation and amenity works, including marked trails (upgrade of existing tracks and provision of new tracks), picnic, amenity and play areas, car parking and vehicular access;*
- (xi) Site drainage;*
- (xii) Forestry Felling;*
- (xiii) Permanent signage;*
- (xiv) All associated site development and ancillary works.*

*This application is seeking a ten-year permission and 30 year operational life from the date of commissioning of the wind farm.*

*An Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) have been prepared in respect of the Subject Development. The proposed development is likely to have significant effects on the environment of Northern Ireland.”*

The Permitted Development application was varied on 7<sup>th</sup> June 2019, when the Board determined that in accordance with section 146B(3)(a) of the Act, the previously issued planning consent for the permitted wind farm development should be altered in accordance with the plans and particulars received on 14<sup>th</sup> day of February, 2019. This was to allow the applicant to utilise a larger turbine rotor diameter but which remains within the consented design envelope and parameters (i.e. tip-height of 156.5m, with no alteration to permitted layout).



### 3.1.1 Planning History in the Vicinity of the Site

The full results of the planning history search are detailed in Appendix 2-1 of the rEIAR. The cumulative study area at its maximum extent as outlined in Chapter 2 and Appendix 2-1 of the rEIAR includes:

- The catchment of the Mourne Beg River downstream as far as its confluence with the River Derg;
- The catchment of the Glendergan River downstream as far as its confluence with the River Derg; and,
- The Lowerymore River downstream as far as Lough Eske.

An additional 1.5km buffer was included in the planning search for catchment areas, to capture any additional projects which may be relevant due to potential connectivity with the catchment areas.

Due to the remedial nature of the rEIAR, applications relevant for the Subject Development (2014-present day) were included. This timespan was chosen to include any potential cumulative effects that could have occurred during the construction phase of the Subject Development. Further buffers (i.e. 10km, 20km) are not included in the below planning history search, as they are not being considered or assessed within each individual chapter and the principle of the Permitted Development is not under consideration within the rEIAR.

The planning history search was compiled via a desk-based study in which the Donegal County Council (DCC) Planning Portal, the An Bord Pleanála website, and Northern Ireland Planning Portal were consulted.

## 3.2 Peat Slide

On 12<sup>th</sup> November 2020, during the construction of a permitted access road to turbine T7, a peat slide or peat failure occurred. The works that were underway at the time in the area where the peat slide occurred, were fully permitted as part of the wind farm's planning permission and were being undertaken in line with the project design that had been subject to EIA. The remainder of this subsection provides a brief overview of the contributory causes of the peat slide and follow-up action undertaken to satisfy the Environmental Protection Agency. A more comprehensive explanation and analysis of the peat slide is provided in various appendices to the remedial EIAR that accompanies this substitute consent application.

An assessment of the peat failure prepared by Dr. Paul Jennings of FTC, which was submitted to and accepted by the EPA, considered the following to be the key contributory causes of the peat failure of 12 November 2020. For the peat failure to occur all or at least most of these key contributory factors were required to be present. One or a few of these factors only are highly unlikely to cause the scale of the peat failure that occurred.

- 1. Construction of floating road. The construction works for the floating road triggered a localised initial peat failure within the underlying insitu peat. It would not be uncommon for sections of floating road to undergo excessive movement due to localised weakening within the underlying peat, however at this location a number of other contributory factors caused an escalation of the initial localised failure.*
- 2. Unforeseen zone of weak peat. It is considered that a zone of unforeseen weaker peat was present below the floating road that resulted in localised failure within the underlying insitu peat.*

3. *Body of very weak peat immediately upslope. Essentially immediately upslope of the floating road was a flat plateau area that was partly formed of essentially a large body of notably saturated and very weak peat. This body of saturated and very weak peat relied for lateral stability on the peat slope upon which the floating road was being constructed.*
4. *Rainfall intensity and pattern. A combination of preceding heavy rainfall and the pattern of weather recorded over the preceding months likely contributed to the failure. The failure was not triggered by an intense rainfall event. Whilst there was no clear significant peak rainfall duration period immediately prior to the peat failure, the combination of a significant dry spell (April and May 2020) followed by relatively high daily rainfall amounts (from June 2020 onwards) likely contributed to the peat failure.*
5. *Drainage and surface water ingress into peat. The existing forestry drainage pattern, which is present in the 1995 aerial photographs of the site, in the flat plateau area directed surface water from rainfall towards the body of very weak peat that ultimately failed, notably along a series of parallel drainage ditches aligned south-north which run for about 230m and flow towards the southern limit of the upper scar. Whilst these forestry drainage ditches meet an forestry interceptor drainage ditch aligned west-east it is not known if this interceptor ditch was functioning.*
6. *Topography. The initiation of the failure occurred at a convex break in the peat slope, at the location of the floating road. A convex break in slope is commonly cited as the location for peat failures for a number of reasons. In this particular case, the convex break in slope marks the transition from a plateau area upslope containing deeper and very weak and saturated peat compared to downslope where the peat is not as deep and has relatively greater strength. At the convex break in slope it is likely that in many cases there is a zone of relatively higher strength peat, due to a greater degree of drainage, that essentially acts to support the very weak and saturated peat present in the plateau area upslope.*
7. *Downslope felled forestry on peat. The area downslope of the floating road comprised a forestry plantation that had been felled a few years in advance of the wind farm construction. The area comprised forestry furrows and drains aligned downslope on peat slopes with a peat depth of about 1.8m. In itself, this area is not unique nor would it represent an increased stability risk. However the presence of furrows and drains aligned downslope on peat slopes, which have severed the acrotelm layer and the likely blockage of drainage following felling operations allowed the slope to readily fail once localised failure was initiated upslope.*
8. *Existing drainage and extent of failure. The existing forestry drainage within the peat is considered to have directed and concentrated surface run-off to the upper scar located in the flat plateau area. To the south of the upper scar a series of parallel drainage ditches (less than about 1m deep) feed water northwards towards the failure scar. Following the failure, inspection of these ditches showed water feeding into the scar.*

As a result of the November 2020 peat failure on-site, the EPA initiated an investigation in early December 2020, the scope of which included the peat stability assessments carried out in relation to the development at Meenbog, both as part of development consent applications and ones carried out pursuant to the failure incident. The Agency issued directions under Regulation 8(1)(b), Regulation 8(1)(a) and Regulation 8(1) of the European Communities (Environmental Liability) Regulations 2008 between December 2020 and April 2021, and other correspondence thereafter.

Over the course of the ten months between December 2020 and September 2021, extensive additional site investigation work, geotechnical analysis, site meetings and reporting, was undertaken by both FTC

and Ionic Consulting on behalf of Planree Ltd., and ARUP on behalf of the EPA. By 28<sup>th</sup> September 2021, the EPA were able to confirm in writing for Planree that:

*“I am to advise that the revised Peat Stability Assessment prepared by FTC and submitted to the EPA pursuant to 1 and 2 above addresses the conclusions/recommendations set out in previous EPA correspondence. The issues identified in correspondence from the EPA on the 29th July 2021 have been satisfactorily addressed. Compliance with the EPA Direction from 1st April is now confirmed.”*

A copy of the EPA letter dated 28<sup>th</sup> September 2021 from which the above text is extracted, is included in **Appendix 3** to this report.

### 3.3 Peat Slide Restoration

As a result of the November 2020 peat failure on-site, DCC initiated an investigation, which resulted in the issuance of notices under Section 12 of the Local Government (Water Pollution) Act 1977 requiring amongst other things, an Action Plan detailing the engineering measures identified and considered necessary to eliminate or limit the release of further polluting matter from the area where the landslide occurred and mitigate against the further dispersal of peat and sediment, deposited along the banks of the watercourse through and beyond the confines of the site.

Between December 2020 and August 2021, four individual Action Plans were prepared to mitigate the effects of the peat slide incident, which included measures for the restoration of the Shruhingarve stream. Following receipt of the necessary approvals from DCC with respect to the proposals contained within each of the Action Plans, the proposed measures were implemented on-site as expeditiously as possible or at the appropriate time of year where certain measures were seasonally dependent. All measures proposed in the four separate Action Plans and approved by DCC to mitigate the effects of the peat failure through the installation of enhanced environmental protection measures and habitat restoration measures, were completed successfully.

The significant efforts to restore and reinstate the effects of the peat slide were acknowledged in a letter dated 31<sup>st</sup> May 2022 issued by Joe Ferry, Acting Section Executive Scientist with Donegal County Council, in which he stated:

*“I would like to commend your company and the staff involved in the restoration work, which has been very well designed and executed so far, and for their courtesy and co-operation since the incident began. The past month hasn't been very favourable in this part of the country for growth, which has set back final approval, but hopefully we'll see some heat to remedy that shortly.”*

In a further letter dated 11<sup>th</sup> July 2022, Mr. Ferry in confirming that DCC were close out the Section 12 notices issued, commented as follows:

*“I believe Donegal Co. Council is now in a position to close out all of the Section 12 notices issued, as all of the seeded areas have shown encouraging signs of growth and establishment, (which reduces the likelihood of any significant sediment release), and the monitoring data obtained for the Shruhingarve and Mournebeg has been satisfactory.*

*We would like to commend your company and the staff involved in the restoration work, which has been very well designed and executed, and for their courtesy and co-operation since the incident began. We would also encourage you to maintain your commitment and place a strong emphasis and vigilance on the current surface water quality monitoring programmes, as the project moves into the next phases.”*

Copies of DCC correspondence dated 31<sup>st</sup> May 2022 and 11<sup>th</sup> July 2022 are included as **Appendix 4**.

## Recommencement of Works

Donegal County Council commenced section 160 proceedings against Planree Ltd. on 3<sup>rd</sup> April 2023. The notice of motion sought orders restraining the carrying out of any unauthorised development on the Site pending the regularisation of the development through a substitute consent application. The proceedings were heard over 3 days in the High Court on 19-21<sup>st</sup> March 2024 and judgment has been reserved. Planree Ltd. undertook to the Court to lodge and pursue to a conclusion, a substitute consent application. The within application is made in that regard. If permitted by the High Court, Planree Ltd. intends to complete the Permitted Development while this application for substitute consent is being processed by the Board in respect of the existing deviations from the original permission. Planree Ltd. will keep the Board informed of its intentions in this regard.

## 4. SUBSTITUTE CONSENT APPLICATION

This subject application for substitute consent is set out in the public notices as follows:

*“Planree Limited intend to apply for substitute consent for development of this site, in the townlands of Meenbog and Croaghonagh, Co. Donegal.*

*Leave to apply for substitute consent in relation to this development was granted by An Bord Pleanála under Section 177D of the Planning and Development Act 2000 (as amended), register reference ABP-314062-22. This application is made pursuant to Section 177E of the Planning and Development Act 2000 (as amended, and as provided for in section 41(12) of the Planning and Development, Maritime and Valuation (Amendment) Act 2022).*

*The development for which substitute consent is being sought consists of:*

*Deviations from the wind farm permitted under ABP-300460-17 (amended by ABP-303729-19). The deviations relate to wind farm roads and hardstand areas, peat management measures, borrow pits, site drainage measures, and all ancillary works.*

*The application for substitute consent is accompanied by a remedial Environmental Impact Assessment Report (rEIAR) and a remedial Natura Impact Statement (rNIS).”*

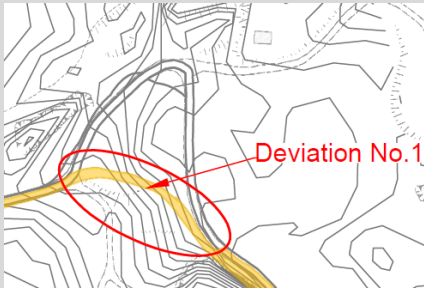
### 4.1 Deviations

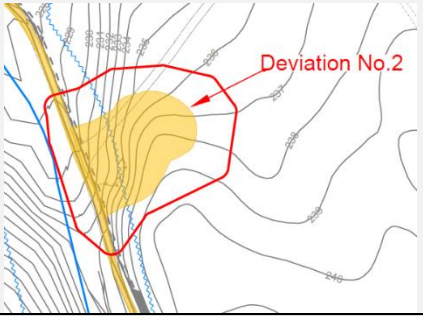
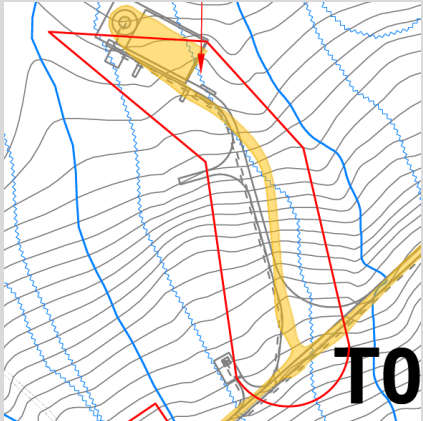

In total, there are 25 no. deviations to the Permitted Development for which substitute consent is being sought. The deviations can grouped into the following categories:

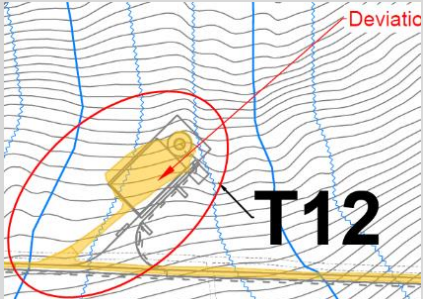
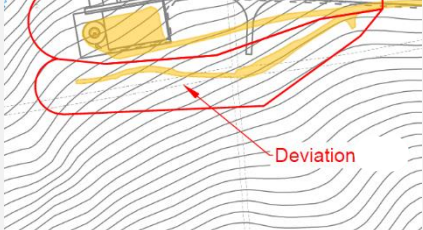
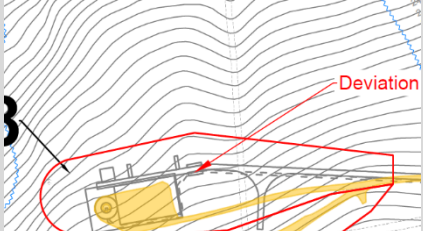
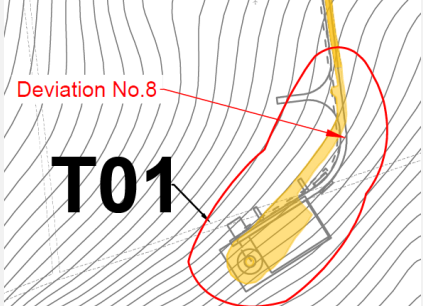
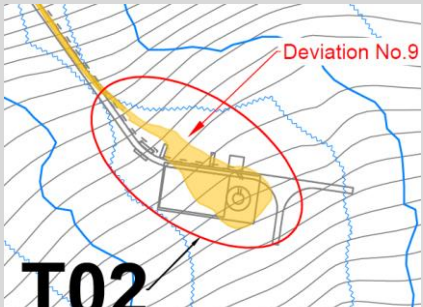
- Site Roads and Hardstand Areas
- Borrow Pits
- Peat and Spoil Management
- Environmental and Water Quality Mitigation Measures

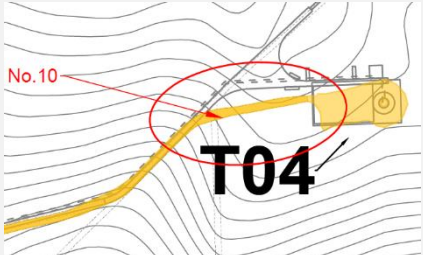
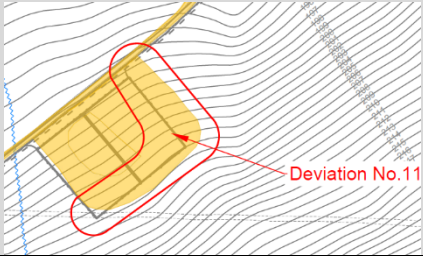
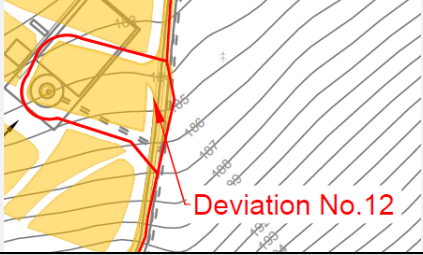
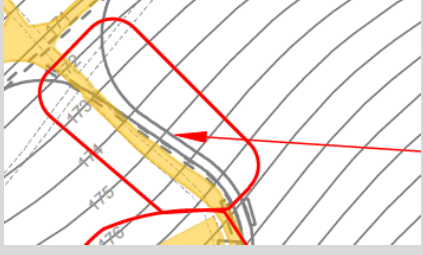
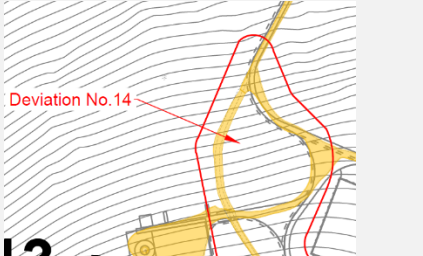
Each of these deviations and the reason for the deviation are detailed in **Table 1** as follows;

Table 1: Deviations forming the Subject Development.

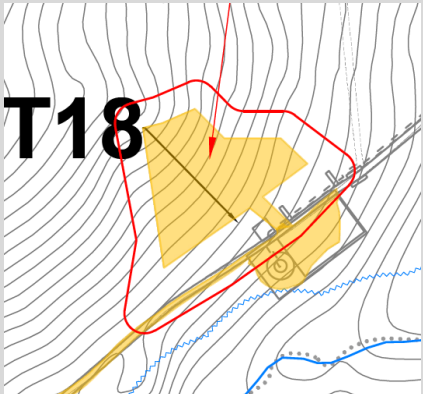
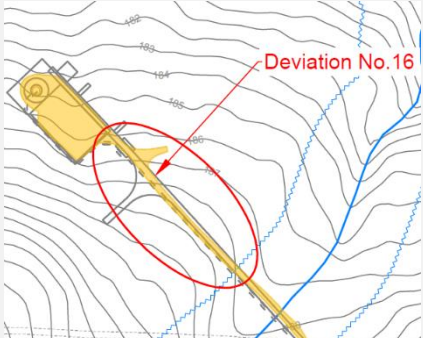
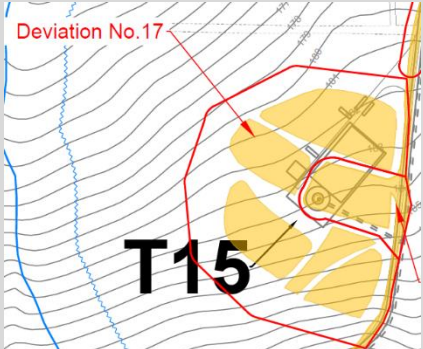
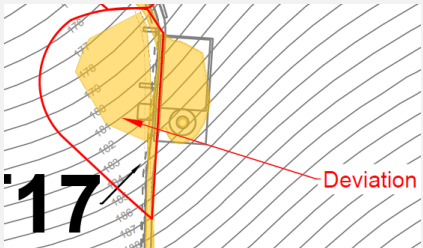
No.	Deviation Description	Location of Deviation	Reason for Deviation
1	Entrance road off N15 (the hairpin bend)		The existing hairpin bend was unsafe as it did not provide adequate line of sight for vehicles using the road. This was a safety concern that only came to light prior to construction and after it was established that the as-built route was feasible from a geotechnical perspective with the benefit of site investigations. Furthermore, the longer blades authorised by the S.146B process in June 2019 (See Section 2.4 of the rEIAR) can be more easily accommodated on the as-built

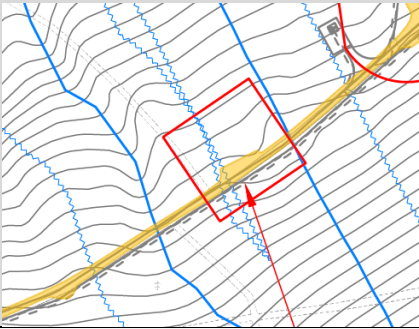
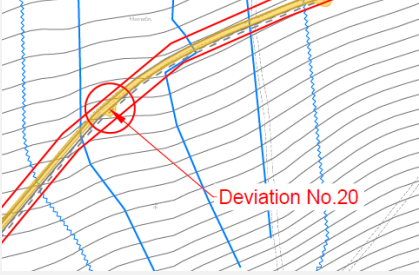
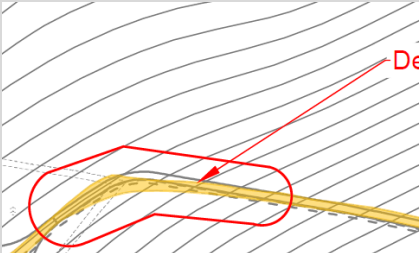
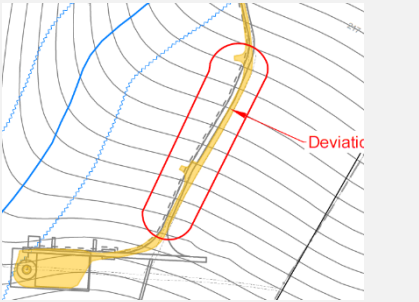
No.	Deviation Description	Location of Deviation	Reason for Deviation
			<p>road by eliminating the need to traverse the hairpin bend.</p> <p>The as-built alignment also required a reduced construction footprint compared to the permitted alignment.</p>
2	Peat cell southeast of substation		<p>Peat cells were created as part of the engineering plans for excess peat that was generated during the course of construction and required management, greater than the volumes estimated pre-construction.</p>
3	T10 access road:		<p>Realigned road was adjusted to follow more favourable ground conditions and topography.</p>
4	Borrow Pit southwest of T12		<p>Existing forestry borrow pit was expanded to win stone on-site ahead of gaining access to the wind farm borrow pits. Excavation of the existing forestry borrow pit continued in lieu of excavation at the permitted BP1 borrow pit.</p>

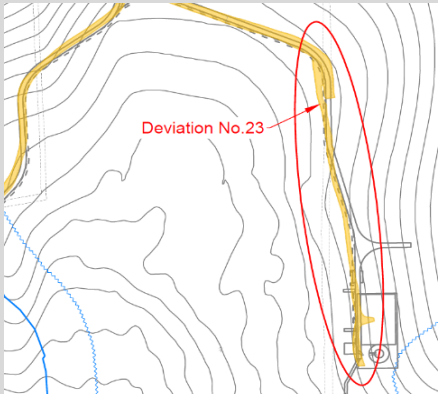
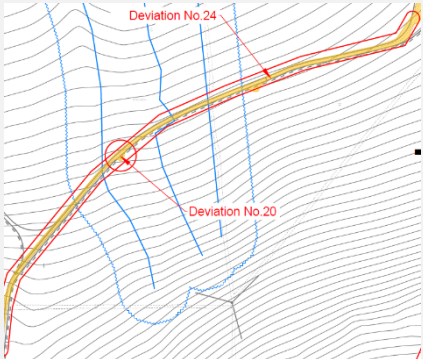
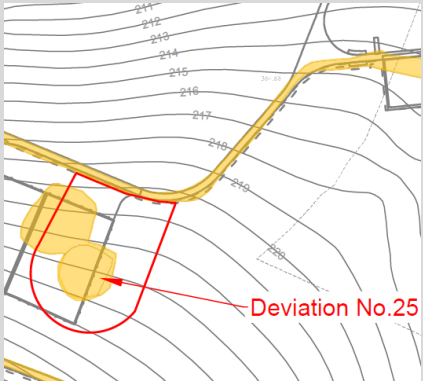
No.	Deviation Description	Location of Deviation	Reason for Deviation
5	T12 access road		<p>The natural topography on site required a slight realignment of the approach to T12 due to rising ground to the east of the planned road. Moving the road approximately 30 metres to the west negated the need for excessive cut at this location.</p>
6	Peat containment berm near T8		<p>A berm was constructed to the south of T8 as a peat containment safety measure prior to constructing T8.</p>
7	T8 access road (see 6 further above for peat containment berm)		<p>The access road to T8 was amended to approach the southern side of the turbine and align with the berm.</p>
8	T1 access road		<p>The approach to T1 was slightly amended to provide a more effective alignment for delivery vehicles based on detailed design of road alignment pre-construction, resulting in a slight reduction in road length.</p>
9	T2 access road		<p>The approach to T2 was slightly amended to provide a more effective alignment for delivery vehicles based on detailed design of road alignment pre-construction.</p>

No.	Deviation Description	Location of Deviation	Reason for Deviation
10	T4 access road		<p>The approach to T4 was slightly amended to provide a more effective alignment for delivery vehicles based on detailed design of road alignment pre-construction.</p>
11	Borrow pit (BP2) south of T15		<p>Permitted borrow pit was expanded slightly to win more rock on-site and avoid the importation of additional volumes from off-site.</p>
12	T15 hardstand and access road		<p>The natural topography on site facilitated direct access to T15 off the main spine road at this location which negated the need for the proposed road to T15. This was achieved by rotating the hardstand by 90 degrees.</p>
13	T17 access road		<p>The permitted road followed the route of a pre-existing forestry firebreak, and the as-built road was constructed as intended, along that firebreak. The intent was clear, but a minor difference in alignment arose between the permitted road and as-built road.</p>
14	T13 road alignment (upgrade of existing forestry track)		<p>An existing forestry road was upgraded and used, thus preventing the need for the construction of the section of new permitted road based on detailed design of road alignment pre-construction.</p>



No.	Deviation Description	Location of Deviation	Reason for Deviation
15	Peat cells NW of T18		<p>Peat cells were created as part of the engineering plans for excess peat that was generated during the course of construction and required management, greater than the volumes estimated pre-construction.</p>
16	T14 turning head		<p>Position of turning head altered to suit the natural topography on the ground.</p>
17	Peat cells near T15		<p>Peat cells were created as part of the engineering plans for excess peat that was generated during the course of construction and required management, greater than the volumes estimated pre-construction.</p>
18	Peat cells near T17		<p>Peat cell was created as part of the engineering plans for excess peat that was generated during the course of construction and required management, greater than the volumes estimated pre-construction.</p>

No.	Deviation Description	Location of Deviation	Reason for Deviation
19	Layby south of T10 with welfare facilities		<p>This was an existing forestry access for harvesting, which was repurposed for locating site office and welfare facilities, which will be removed upon completion of construction.</p>
20	Layby northeast of T15		<p>Layby in this area installed as a safety measure to allow construction traffic to pass. It is along the original permitted road alignment to T15. Passing bays were included in the planning drawings though actual location on the ground may have varied as dictated by ground conditions.</p>
21	T19 access road		<p>Slight widening and curve realignment to increase horizontal bend radius for turbine blade delivery.</p>
22	T9 access road		<p>The permitted road followed the route of a pre-existing forestry track, and the as-built road was constructed as intended, along that forestry track. The intent was clear, but a minor difference in alignment arose between the permitted road and as-built road.</p>

No.	Deviation Description	Location of Deviation	Reason for Deviation
23	Additional storage area and access road to T7		<p>The slightly realigned road served the dual purpose of acting as a peat containment berm following the November 2020 peat failure.</p>
24	Roadside berms and settlement ponds		<p>Small, low-level roadside berms were used to contain mud within the road corridor surface and prevent run-off into the wind farm drainage system or settlement ponds, check dams and silt fences.</p> <p>Settlement ponds are entirely consistent with the permitted wind farm's drainage design, but would not have been shown on planning drawings and therefore may appear to have been outside the Permitted Development footprint.</p>
25	Assessment of additional excavated borrow pit and peat storage cell at T-13		<p>Position of permitted borrow pit was repositioned to suit local topography.</p>

## 5. PLANNING POLICY

### 5.1 National Policy Context

#### 5.1.1 National Planning Framework: Project Ireland 2040

The National Planning Framework (NPF), published in February of 2018, forms the top tier of the national planning policy structure which establishes the policy context for the Regional Spatial and Economic Strategies (RSES) and local level development plans. In an effort to move away from developer led development to one informed by the needs and requirements of society up to 2040, a number of objectives and policies have been put in place in order for the country to grow and develop in a sustainable manner.

- Developing a new region-focused strategy for managing growth;
- Linking this to a new 10-year investment plan, the Project Ireland 2040 National Development Plan 2018-2027;
- Using state lands for certain strategic purposes;
- Supporting this with strengthened, more environmentally focused planning at local level; and
- Backing the framework up in law with an Independent Office of the Planning Regulator.

The NPF notes that the population of Ireland is projected to increase by approximately 1 million people by 2040 which will result in a population of roughly 5.7 million. This population growth will place further demand on both the built and natural environment. In order to strengthen and facilitate more environmentally focused planning at the local level, the NPF states that future planning and development will need to:

*“Tackle Ireland’s higher than average carbon-intensity per capita and enable a national transition to a competitive low carbon, climate resilient and environmentally sustainable economy by 2050, through harnessing our country’s prodigious renewable energy potential.”*

A key focus throughout the NPF is the fostering of a transition toward a low carbon, climate-resilient society. In this regard, one of the stated key elements of the NPF is an Ireland which has a secure and sustainable renewable energy supply and facilitates the ability to diversify and adapt to new energy technologies. Key features identified in the NPF to facilitate the transition towards a low carbon energy future include:

- A shift from predominantly fossil fuels to predominantly renewable energy sources.
- Increasing efficiency and upgrades to appliances, buildings and systems.
- Decisions around development and deployment of new technologies relating to areas such as wind, smart grids, electric vehicles, buildings, ocean energy and bio energy.
- Legal and regulatory frameworks to meet demands and challenges in transitioning to a low carbon society.

Relevant to the Meenbog Windfarm, the **National Strategic Outcome 8** (*Transition to Sustainable Energy*), notes that in creating Ireland’s future energy landscape, new energy systems and transmission grids will be necessary to enable a more distributed energy generation which connects established and emerging energy sources, i.e. renewables, to major sources of demand. The successful transition to a low-carbon power system will depend on the pillars of 1) *Sustainability*, 2) *Security of supply* and 3) *Competitiveness*. A common theme underpinning these pillars is the need for a fit-for-purpose transmission and distribution energy network. Specifically, the NPF states that reinforcement of the distribution and transmission network to facilitate planned growth and distribution of a more renewables focused source of energy across the major demand centres, e.g. the functional purpose of the extant grid connection. Ireland’s national energy policy under **Objective 55** aims to ‘*promote renewable energy use and generation at appropriate locations within the built and natural environment*

to meet national objectives towards achieving a low carbon economy by 2050'. The NPF aims to ensure that decisions that are made today meet our future needs in a sustainable manner.

*“The manner in which we plan is important for the sustainability of our environment. Our planning system has influence across a wide range of sectors, both directly and indirectly and interacts with many common issues related to effective environmental management, including water services, landscape, flood risk planning, protection of designated sites and species, coastal and marine management, climate mitigation and adaptation, and land use change.”*

An overarching objective of the NPF is to foster a transition toward a low carbon, climate-resilient society, which reflects the policy ethos established at the European level of governance (e.g. climate change and renewable energy targets – Section 2.1). In this regard, one of the key themes of the NPF is the realisation of an Ireland which has a secure and sustainable renewable energy supply and the ability to diversify and adapt to new energy technologies. The NPF references the National Climate Policy Position (superseded by the then CAP 2019) which established the fundamental objective of achieving transition to a competitive, low carbon, climate-resilient and environmentally sustainable economy by 2050. The NPF emphasises that rural areas have a strong role to play in securing a sustainable renewable energy supply for the country and acknowledges that *“rural areas have significantly contributed to the energy needs of the country and continue to do so”*. In this regard, the NPF states:

*“In meeting the challenge of transitioning to a low carbon economy, the location of future national renewable energy generation will, for the most part, need to be accommodated on large tracts of land that are located in a rural setting, while also continuing to protect the integrity of the environment”.*

The NPF acknowledges that GHG emissions from the energy sector must be reduced by at least 80% by 2050 when compared to 1990 levels while ensuring a secure supply of energy exists. New energy systems and the maintenance / safeguarding of existing grid assets will be necessary for a more distributed, renewables focused energy system required to harness Ireland's considerable indigenous energy sources and *“connect the richest sources of that energy to the major sources of demand”*.

In regard to the above, it is clear that the provision of new renewable energy generation is in line with the aims and objectives of the NPF which seeks to transition to a low carbon economy. The Subject Development, if granted substitute consent, will aid in reaching the targets of reducing GHG emissions from the energy sector and further strengthen Ireland's energy security.

It is considered that the Meenbog Wind Farm is in line with the National Planning Framework. This framework projects a population increase of 1 million people by 2040 and therefore recognises the strain and demand this will put on Ireland's energy system. In order to ensure Ireland delivers on our renewable energy and carbon emission reduction targets, the NPF recognises the need for increased renewable energy onto the national grid.

This shift from fossil fuels is dependent upon schemes such as the one proposed to generate renewable energy. Given the projected population increase, it is considered that if the share of renewable energy onto the grid is not increased, Ireland will fail to reach the National and International targets on emission reductions.

The Meenbog Wind Farm will have an estimated electricity generation capacity of approximately 90MW when it comes online and will significantly contribute to Ireland's national targets and support the country in meeting its renewable energy and carbon emission reduction goals at the EU level. The regularisation of the planning status of the Subject Development will facilitate the timely completion of the Meenbog Wind Farm and will therefore contribute to meeting Ireland's national and EU renewable energy and carbon emission reduction goals.

## National Development Plan 2021-2030

The National Development Plan 2021 – 2030 (NDP) was published on 4<sup>th</sup> October 2021 and sets out the major public investment projects identified by Government which are to play a significant role in addressing the opportunities and challenges faced by Ireland over the coming years such as Covid-19, Brexit, housing, health, population growth, and most relevant to the Subject Development, climate change. It is stated that the NDP will be the *'largest and greenest ever delivered in Ireland'*, and in this regard, the NDP highlights that extensive consultation was undertaken to ensure that the plan adequately supports the implementation of climate action measures. Reflecting on the recent publication of the IPCC's 6<sup>th</sup> Assessment Report, the NDP notes that the Irish Government is fully committed to 'playing its part' to ensure that the worst climate change damage can be avoided, e.g. significant reductions in CO<sub>2</sub> and other greenhouse gas emissions as assisted by the achievement of both European and National renewable energy targets. Specifically, the NDP states that,

*"The next 10 years are critical if we are to address the climate crisis and ensure a safe and bright future for the planet, and all of us on it.*

*The investment priorities included in this chapter [Ch. 13] must be delivered to meet the targets set out in the current and future Climate Action Plans, and to achieve our climate objectives. The investment priorities represent a decisive shift towards the achievement of a decarbonised society, demonstrating the Government's unequivocal commitment to securing a carbon neutral future."*

Notwithstanding this, the NDP acknowledges that it is not its role to set out a specific blueprint for the achievement of Ireland's climate targets; but as noted above, facilitate capital investment allocations for the climate and environmental strategic priorities.

The Meenbog Wind Farm is considered to be in compliance with the aims and objectives of the NDP. One of the NDP's strategic climate priorities is the need for low-carbon, resilient electricity systems; specifically, the plan commits to increasing the share of renewable electricity up to 80% by 2030. This is characterised by the NDP as an *'unprecedented commitment to the decarbonisation of electricity supplies'*, which is certainly an ambitious and an explicit driver for the deployment of new renewable generators such as the Meenbog Wind Farm. The focus of investment in renewable energy infrastructure is to contribute to a long-term, sustainable and competitive energy future for Ireland.

The Meenbog Wind Farm which includes the Subject Development is considered to be in line with National Policy objectives. The CAP24 as outlined herein was published to outline national actions required to meet EU climate targets. According to CAP24, Ireland aims to utilise its native renewable resources and has set a goal of reaching 80% renewable energy production by 2030 and produce 9GW of wind by 2030. Measures are also outlined to accelerate the delivery of onshore wind. It is therefore considered that the operation of the Meenbog Wind Farm with an approximate electricity generation capacity of approximately 90MW and the regularisation of Subject Development, would greatly aid Ireland in achieving its national targets and will also assist in reaching the renewable energy and carbon emission reduction targets at EU level.

The National Energy Security Framework identifies a number of measures to fast-track Ireland's transition to renewable energy projects. With regard to this, it is considered clear that the implementation of the Meenbog Wind Farm would continue to fully be in accordance with the framework by increasing the share of renewable energy onto the national grid and thereby accelerating Ireland's transition to a low carbon energy future.

## 5.2 Regional Policy Context

### 5.2.1 Northern and Western Regional Spatial and Economic Strategy

The Northern and Western Regional Assembly (NWRA) has a recognised leadership role in setting out regional policies and coordinating initiatives which support the delivery and implementation of the National Planning Framework (NPF). The primary vehicle for this is the preparation and implementation of the Regional Spatial and Economic Strategy (RSES).

The North and Western region is characterised by the RSES as having ‘*a unique natural endowment of ample carbon-neutral, energy supplies*’ such as wind. Specifically, the Western Region is stated as being ‘*particularly rich*’ in renewable energy resources dispersed across the region. The RSES acknowledges that the region has a pivotal role in delivering a successful transition to Ireland’s proposed low carbon economy with huge potential for growth in renewables. As such, there is ‘*still significant potential*’ for all new renewable energy outputs to the grid. In order to facilitate the growth of renewables within the region, the RSES notes that the NWRA aims to encourage stakeholders, i.e. industry, commercial etc., to be the first to facilitate new opportunities and concentrate on possibilities to further advance renewable energy generation and use.

These strategic aims are captured in Policy Objectives 4.16, 4.17 and 4.18:

**RPO 4.16:** The NWRA shall co-ordinate the identification of potential renewable energy sites of scale in collaboration with Local Authorities and other stakeholders within 3 years of the adoption of the RSES. The identification of such sites (which may extend to include energy storage solutions) will be based on numerous site selection criteria including environmental matters, and potential grid connections.

**RPO 4.17:** To position the region to avail of the emerging global market in renewable energy by stimulating the development and deployment of the most advantageous renewable energy systems, including:

- Stimulating the development and deployment of the most advantageous renewable energy systems;
- Raising awareness and public understanding of renewable energy and encourage market opportunities for the renewable energy industry to promote the development and growth of renewable energy businesses; and
- Encourage the development of the transmission and distribution grids to facilitate the development of renewable energy projects and the effective utilisation of the energy generated from renewable sources having regard to the future potential of the region over the lifetime of the Strategy and beyond.

**RPO 4.18:** Support the development of secure, reliable and safe supplies of renewable energy, to maximise their value, maintain the inward investment, support indigenous industry and create jobs.

As indicated above, there is a clear precedent within the region to identify and capitalise on emerging opportunities associated with the transition to a decarbonised economy such as renewable energy generation. It should be noted, however, that the existing transmission network within the region is predominantly 110 kV with very little higher capacity 220kV and 400kV transmission infrastructure. As such, the RSES endorses the future development of the grid in order to safely facilitate more diverse power flows from surplus regional generation and also to facilitate future growth in electricity demand:

- **RPO 8.3:** The Assembly support the necessary integration of the transmission network requirements to allow linkages with renewable energy proposals at all levels to the electricity transmission grid in a sustainable and timely manner.
- **RPO 8.4:** That reinforcements and new electricity transmission infrastructure are put in place and their provision is supported, to ensure the energy needs of future population and economic expansion within designated growth areas and across the Region can be delivered in a sustainable and timely manner and that capacity is available at local and regional scale to meet future needs. Ensure that development minimises impacts on designated areas.

The RSES is ultimately supportive of the future growth of renewable energy technology in the region and sets a clear precedent to identify and capitalise on those opportunities associated with the transition to renewable energy generation.

The RSES for the Northern and Western Region states that the region has a crucial role to play in Ireland transition to a low carbon future. It is considered that the provision of the Development would facilitate this transition and is particularly in line with **RPO 4.17** and **4.18** as outlined above. In the region, a noticeable trend has emerged to recognize and take advantage of emerging opportunities related to the shift towards a decarbonized economy, particularly in the realm of renewable energy generation and therefore the the Subject Development which forms part of the Meenbog Wind Farm is considered to be in line with Regional Policy.

## 5.3 Local Policy Context

### 5.3.1 Donegal County Development Plan 2018-2024 (As Varied)

The Donegal County Development Plan 2018-2024 (As Varied) (DCDP) is strongly supportive of renewable energies, more specifically wind energy, particularly in the context of climate change mitigation and adaptation. This policy document represents a crucial blueprint for steering the county towards a sustainable and resilient future. The policies outlined in this strategic document align with national and European objectives in terms of promoting renewable energy and energy projects that facilitate sustainable development. The development of the Meenbog Wind Farm, including the Subject Development, continues to meet the objectives of and align with key policies relating to the protection and conservation of the environment as set out below:

- ***FO-3:*** *To ensure that the requirements of EU and national law in relation to the natural environment and nature conservation are complied with at all stages of flood risk management and to comply with Articles 6 of the Habitats Directive and have regard to the relevant conservation objectives, qualifying interest and threats to the integrity of Natura 2000 site*
- ***NH-O-2:*** *To comply with Article 6 of the Habitats Directive (92/43/EEC) and have regard to the relevant conservation objectives, management plans, qualifying interests and threats to the integrity of Natura 2000 sites.*
- ***EX-O-1:*** *To conserve and protect the environment, including in particular, the archaeological and natural heritage and conservation and protection of European designated sites and any other sites, which are prescribed.*

A number of these policies highlight the role of the Council in facilitating the successful development of wind energy projects across the county, in the interest of sustainable development.



- **E-P-16:** *It is a policy of the Council to support the strengthening and enhancement of the capacity of existing wind farms, within the local environmental capacity including the sustainable upgrade/replacement of older turbines with newer and more efficient models.*
- **E-P-18:** *It is a policy of the Council that potential impacts on natural, built and cultural heritage including impacts on archaeological monuments and watercourses are assessed as part of renewable development proposals. Where such impacts are identified, mitigation measures such as buffer zones, separation distances and access arrangements should be employed as appropriate.*
- **E-P-19:** *It is a policy of the Council to facilitate the development of combined wind and wave, tidal and/or hydro proposals in areas where there are no significant environmental, heritage or landscape constraints, to generate and export renewable energy and to generate local revenue subject to the proper planning and sustainable development of the area.*
- **E-P-20:** *It is the policy of the Council that all proposals for renewable energy development will have regard to the cumulative effect of the development on the environment when considered in conjunction with other existing and permitted developments in the area.*
- **E-P-21:** *It is the policy of the Council that all applications for renewable energy projects will ensure that details of the proposed grid connection and all associated infrastructure are considered in the Environmental Impact Statement (EIS) and Natura Impact Statement as may be required.*

Both the Permitted Development and Subject Development fulfil the requirements of these policies in the context of demonstrating the required environmental considerations, and producing the relevant documentation and reports provided.

### 5.3.2 Draft Donegal County Development Plan 2024-2030

The Draft Donegal County Development Plan (2024-2030) (DDCDP) was published for public consultation between 4<sup>th</sup> August and 13<sup>th</sup> October 2023. The Chief Executive's Report was published in January 2024. The Council has published Proposed Material Alterations/Changes to the Draft County Donegal Development Plan 2024-2030 for public consultation from Friday 8<sup>th</sup> March to Friday 5<sup>th</sup> April 2024, and so it is anticipated that the plan will be adopted within the coming months.

Similar to the extant plan, the DDCDP demonstrates an ambition to support renewable energy projects. It acknowledges the cruciality of renewable energy in the context of climate change mitigation and adaptation, and notes the opportunity that Donegal county has to offer in terms of wind energy potential. This is supported by key policy objectives outlined below:

- **E-O-1:** *To sustainably develop a diverse and secure renewable energy supply to meet demands and capitalize on the County's competitive locational advantage.*
- **E-O-2:** *To secure the maximum potential from the wind energy resources of the County commensurate with the receiving environment and local developments patterns consistent with the proper planning and sustainable development, thereby contributing to the national drive towards ensuring the security of energy supply*

The Meenbog Wind Farm which includes the Subject Development will contribute to the fulfilment of these policy objectives outlined. Through this substitute consent application, proper planning and sustainable development is successfully demonstrated, ensuring that the Subject Development does not adversely impact upon the existing environment.

**Policy WE-P-1** of the DDCDP is pertinent, stating:

*“The augmentation, upgrade and improvements of: existing windfarms; windfarm developments under construction; developments where permission has lapsed but substantial works have been completed, or on sites with an extant planning permission will be open to consideration where such proposals shall be generally confined to the planning unit of the existing development, or where a modestly-proportioned projection (relative to the established unit) beyond the established footprint can be demonstrated to be essential and unavoidable for the augmentation project in terms of operational efficiencies, and can demonstrate beyond reasonable doubt that all environmental issues can be adequately mitigated.”*

Policy **WE-P-5** is relevant to the Subject Development, having the aim *“To ensure that all roads associated with the development of wind farms are maintained or repaired at the developer’s expense to the satisfaction of the Council.”*

Policy **WE-P-9** states: *“To ensure that the assessment of Wind Energy Development Proposals have regard to the following Specific Biodiversity Related Requirement:*

- *Loss of functionally linked habitat*
- *Mortality due to collision with operational wind turbines*
- *Disturbance displacement*
- *Water Quality”*

Overall, it is evident that the DDCDP is supportive of the delivery of wind energy projects, in the context of climate change mitigation and adaptation. The policy analysis demonstrates that the planning deviations associated with the development, continue to align with the key policy objectives outlined within the Plan.

### 5.3.3 Donegal County Council Climate Action Plan 2024-30

The Local Authority Climate Action Plan (LACAP) 2024 to 2029 sets out how Donegal County Council (DCC) will be responsible for enhancing climate resilience, increasing energy efficiency, and reducing greenhouse gas emissions, across its own assets, services, and infrastructure, for which it is fully accountable, whilst also demonstrating a broader role of influencing, advocating, and facilitating other sectors, to meet their own climate targets and ambitions.

The Plan notes that Climate change is increasingly understood to be the most critical, long-term global challenge of our time. This is echoed by Ireland’s climate where Met Éireann stated that 2022 was ‘the warmest year on record’. This would see Ireland’s temperature above the long-term average for the 12th consecutive year.

Key strategies outlined to address climate change include efficient resource allocation, adaptation strategies, mitigation strategies. Specifically, the Plan sets out policy objectives that increase the use of renewable energy, by aiming to *“Support the delivery of renewable electricity generation and transmission infrastructure within the County”*. Chapter 3 outlines key actions relating to this, which are set out below:

- **BE 4.3:** Prepare an overall Renewable Energy Strategy for the County.
- **BE 4.4:** Support local community-based renewable energy projects and new micro-generation and small-scale generation renewable energy projects
- **BE 4.5:** Advocate for the ongoing expansion and improvements to the electricity grid infrastructure within the County to support renewable generation and supply

- **BE 4.6:** Work with key partners and stakeholders to support the development of the offshore renewable energy sector in Donegal.

The Plan states that planning policy supports “*Potential for the further integration of climate action policy and spatial planning across the policy areas of land use and transportation policy, energy efficiency, renewable energy sources and infrastructure, district heating, energy storage, natural environment policies, flood risk management and ‘smart towns/cities’ initiatives etc.*” (our emphasis added).

It is therefore evident that the subject development aligns with the key policies and objectives of the Donegal County Council Climate Action Plan 2024-2030, in its aim to provide a significant source of renewable energy to support demands, as a mitigation and adaptation response to the pressing issue of climate change.

### 5.3.4 **Derry City and Strabane Local Development Plan 2032: Draft Plan Strategy**

It is anticipated that the Derry City and Strabane Local Development Plan 2032 will be adopted in Quarter 1 of 2025. The draft Plan Strategy (dPS) notes that the District has particularly strong potential for generation of renewable and low carbon energy, especially from wind, hydro, biomass and solar. Energy derived from these sources contributes to a sustainable supply of same to local businesses and homes and also contributes to the drive for ‘green electricity’ generation across the island of Ireland through the interconnected grid. As of March 2017, the Derry City and Strabane District is the single largest producing council of renewable energy, generating approximately 27% across NI, having some 44 operational single wind turbines, and 12 wind farms. This demonstrates the Council’s ambition to facilitate renewable energy projects in an aim to meet Government targets of reducing carbon emissions by 80% by 2050 (from 1990 levels) and also to achieve 40% electricity consumption from renewable sources and a 10% renewable heat target, by 2020.

Relating specifically to Wind Energy Development, the dPS sets out that proposals for wind energy development, including proposals for repowering of existing developments, will also be required to meet all of the following criteria:

- *the development will not have an unacceptable impact on visual amenity or landscape character through: the number, scale, size and siting of turbines*
- *the development has taken into consideration the cumulative impact of existing wind turbines, those which have permissions and those that are currently the subject of valid but undetermined applications;*
- *it is demonstrated that development will not create a significant risk of landslide or bog burst; nor will it exacerbate any existing surface water flooding;*
- *no part of the development will give rise to unacceptable electromagnetic interference to communications installations; radar or air traffic control systems; emergency services communications; or other telecommunication systems;*
- *no part of the development will have an unacceptable impact on roads, rail or aviation safety.*
- *turbines proximate to any public road, public right of way or railway line are set back a minimum distance of the fall over distance plus 10% from the edge of same.*
- *turbines proximate to any occupied or occupiable buildings are set back a minimum distance of the fall over distance plus 10% from the curtilage of same;*

- *the development will not cause significant harm to the safety or amenity of any sensitive receptors (including future occupants of committed developments) arising from noise; shadow flicker; ice throw; and reflected light; and*
- *above-ground redundant plant (including turbines), buildings and associated infrastructure shall be removed and the site restored to an agreed standard appropriate to its location. A time limit condition of 30 years will normally be attached.*

The DPS also notes that “*Within designated Wind Energy Capacity Areas (WECAs), any further wind energy development proposals, including re-powering, will need to be very carefully considered so that they do not unacceptably intensify existing adverse landscape impacts in these areas.*”

These policies highlight the strict parameters for wind farm development within the region. Both the Permitted Development and the Subject Development are in compliance these policies. The Subject Development has been rigorously assessed concluding that no potential for cumulative impacts when considered in conjunction with Permitted Development were identified. There will be no impact on designated sites as a result of the Subject Development. Best practice preventative measures will be implemented to avoid effects on European Sites. As evident in the rEIAR and rNIS, there will be no adverse effects on receptors listed as QIs/SCIs of European Sites, as a result of the development.

### 5.3.5 Strabane Local Area Plan 1986-2001

The existing plan contains a rural strategy which focuses on development control for the location, siting and design for housing in rural areas. With regard to wider rural conservation and management issues, the plan identifies Areas of Outstanding Natural Beauty (AONB) and Areas of Scientific Interest (ASSI). AONB are located east of Strabane within the Sperrin area. The Subject Development is located west of Strabane and is not located near lands designated for outstanding natural beauty. An ASSI is located south of the Site. The plan does not refer to the development of wind energy due to the publication date of 1989 when renewable energy was not a common feature of the landscape.

## 5.4 Summary of Compliance

The Permitted Development was granted planning permission in 2018 and as such the principle of the wind energy development in this location is not under consideration as part of this application or within the rEIAR. Policy support for the continued deployment of renewable energy developments continues to exist at all levels of the planning policy hierarchy. The Subject Development, to which this Substitute consent application relates, aligns with this policy support against the backdrop of a consented wind energy development.

## 6. JUSTIFICATION OF EXCEPTIONAL CIRCUMSTANCES

This application is being made following a grant of permission from the Board for Leave to Apply for Substitute Consent (ABP Ref: 314062-22), under Section 177C (now repealed) of the Act. A detailed justification was included in the application for leave to apply for substitute consent for the Subject Development in respect of the exceptional circumstances as required under the now repealed provisions of Section 177D(2) of the Act.

Since the lodgement and subsequent grant of permission for Leave to Apply application, new legislation has come into effect, which has repealed and now no longer requires an application under the provisions of Section 177C of the Act. It is noted under Section 177K(1J) of the Act, which has subsequently been amended lists the applicable Exceptional Circumstances, and includes the following:

*“(a) whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive;*

*(b) whether the applicant had or could reasonably have had a belief that the development was not unauthorised;*

*(c) whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired;*

*(d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development;*

*(e) the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated;*

*(f) whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development;*

*(g) such other matters as the Board considers relevant.”*

This application is seeking substitute consent under the provisions of Section 177E of the Act, and with the benefit of Section 41(12) of the Planning and Development, Maritime and Valuation (Amendment) Act 2022 (“the 2022 Act”), which provides for an application for substitute consent being made under section 177E of the Act, pursuant to leave to apply for substitute consent being granted under section 177D before the date of the coming into operation of sections 26 to 40 of the 2022 Act, being considered in accordance with the Act as if those sections had not come into operation. Nonetheless, this section below sets out the justification for exceptional circumstances to which this application may relate, as previously considered by the Board and set out within the ‘Leave to Apply’ Report (included in Appendix 1-1 of the rEIAR).

### **(a) Whether the regularisation of the development concerned would circumvent the purpose and objectives of the EIA Directive or the Habitats Directive.**

The regularisation of the 25 deviations to the already Permitted Development would not circumvent the purpose and objectives of the EIA Directive or the Habitats Directive.

An EIA and AA has already been undertaken for the permitted Meenbog Wind Farm development, supported by the EIAR and NIS that accompanied the planning permission application submitted to

the Board, which was subject to public consultation. The development as constructed to-date, including the subject 25 deviations, is consistent in terms of the nature, scale, and extent of potential impacts on the environment as assessed in the EIAR prepared for the Permitted Development, and as assessed in the EIA and AA undertaken by the Board.

An Environmental Report of the identified deviations previously prepared by MKO and submitted to DCC assessed whether the deviations materially altered the findings of the Submitted EIAR. The report concluded the identified deviations did not have any significant effects on the environment beyond those already considered in the original EIAR. None of the identified deviations either individually, or cumulatively have resulted in any increase in negative environmental effects on Population and Human Health, Air and Climate, Noise and Vibration, Cultural Heritage, Landscape, or Material Assets. The identified deviations are all contiguous with the original development footprint and are small in scale in the context of the overall scale of the development. Furthermore, detailed analysis of the identified deviations concludes that the identified deviations have not resulted, either individually or cumulatively, in any increase in negative environmental effects on Biodiversity, Ornithology, Land, Soils and Geology, or Water.

The remedial EIAR and remedial NIS now accompanying this application for substitute consent for the 25 deviations supersedes the Environmental Report previously submitted to DCC, but more comprehensively and robustly reach the same conclusions that the identified deviations have not resulted in, either individually, cumulatively or in-combination, any significant negative environmental effects. The purpose and objectives of the EIA Directive and Habitats Directives will be fulfilled by this application for substitute consent, and will not, and have not been circumvented. This includes the requirement for public participation in the EIA and AA processes, opportunities for which will be available to any person or body following lodgement of this substitute consent application.

#### (b) Whether the applicant had or could reasonably have had a belief that the development was not unauthorised.

The applicant could reasonably have had a belief that the 25 alternations to the already permitted strategic infrastructure development were not unauthorised.

As is to be expected with large scale wind energy developments and other strategic infrastructure projects of this nature, the planning permission application documentation and permission must have a degree of built-in flexibility to allow construction activities to be further refined in response to specific on-site conditions that may be encountered. Accordingly, in large-scale wind energy developments and other strategic infrastructure projects of this nature, deviations from the original planning drawings that were submitted, can occur. However, such deviations should not be considered to represent a material departure from the terms of the consented project, as the full suite of mitigation measures provided within the relevant EIAR, Construction and Environmental Management Plan (CEMP) and as conditioned in the planning permission, apply in full.

There is established precedent in the context of the S.146B process for the Board to be entitled to consider sometimes significant deviations to infrastructure within strategic wind farm development projects as non-material.

A significant majority of the 25 deviations for which substitute consent is being sought are only evident from a detailed retrospective analysis and comparison of what had been built, with what was originally permitted. The majority of the 25 deviations do not represent significant modifications to what was originally permitted. Where, for example, the general alignment of permitted roadways was accurately followed, but the as-built road ended up 1-2 metres offset from the permitted footprint, in the context of a site that measures 990 hectares and includes over 22 kilometres of access road, it is considered reasonable to believe such deviations would not have been considered to be unauthorised development.

DCC nonetheless considered the identified deviations to require regularisation, and highlighted the substitute consent process as the means by which they could be regularised.

The development as constructed to-date, including the subject 25 deviations from the Permitted Development, is entirely consistent in nature, scale, and extent, with the works originally proposed, assessed (for the purposes of EIA and AA) as part of the Permitted Development. Therefore the applicant could reasonably have had a belief that the deviations to the already permitted strategic infrastructure development, would not been considered unauthorised.

**(c) Whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an EIA or AA and to provide for public participation in such assessment has been substantially impaired.**

The ability to carry out an assessment of the environmental impacts of the development for the purpose of an EIA or AA and to provide for public participation in such assessment has not been substantially impaired, nor impaired to any degree.

A comprehensive remedial EIAR and remedial NIS have been prepared with respect to the 25 deviations to the Permitted Development, and are submitted to the Board as part of this application for substitute consent.

An Environmental Report on the identified deviations previously prepared by MKO and submitted to DCC assessed whether the deviations materially altered the findings of the Submitted EIAR. The report concluded the identified deviations did not have any significant effects on the environment beyond those already considered in the original EIAR. The ER concluded that none of the identified deviations either individually, or cumulatively have resulted in any increase in negative environmental effects on Population and Human Health, Air and Climate, Noise and Vibration, Cultural Heritage, Landscape, or Material Assets. The identified deviations are all contiguous with the original development footprint and are minor in relation to the overall scale of the development. Furthermore, detailed analysis of the identified deviations concludes that the identified deviations have not resulted, either individually or cumulatively, in any increase in negative environmental effects on Biodiversity, Ornithology, Land, Soils and Geology, or Water. The remedial EIAR and remedial NIS now accompanying this application for substitute consent for the 25 deviations supersedes the Environmental Report previously submitted to DCC, but more comprehensively and robustly reach the same conclusions that the identified deviations have not resulted in, either individually, cumulatively or in-combination, any significant negative environmental effects.

Section 177H of the Act, provides for any person, or a planning authority, making submissions or observations to the Board in relation to an application for substitute consent, including any remedial EIAR and remedial NIS. Any such submissions must be taken into account by the Board, as the competent authority responsible for the preparation of the remedial EIA and remedial AA, thereby ensuring that public participation in such assessment has not been impaired.

**(d) The actual or likely significant effects on the environment or adverse effects on the integrity of a European Site resulting from the carrying out or continuation of the development.**

The Permitted Development has been previously assessed for the purposes of EIA and AA and was not deemed likely to have significant effects on the environment or adverse effects on the integrity of a European Site. The works remaining to be completed on the 19-turbine permitted wind development, are fully permitted, and with 90% of the groundworks already completed, the remaining works mainly comprise of turbine installation and some final preparatory works required prior to the delivery of turbine components to-site.

No further groundworks are proposed or envisaged as necessary with respect to any of the 25 deviations to the Permitted Development for which substitute consent is now sought, save for the application of a top-dressing of stone on certain sections of the access roads and turbine hardstands, as would always have been intended for the Permitted Development. Therefore, the deviations will not result in any significant effects on the environment or adverse effects on the integrity of a European Site.

The remedial NIS now submitted to the Board (with this substitute consent application) with respect to the 25 deviations to the Permitted Development, presents a detailed examination, analysis and evaluation of the actual and likely significant effects on European sites of the 25 deviations, cumulatively and in-combination with the previously permitted wind farm development and other developments in the surrounding environment. The conclusion is the remedial NIS confirms that *“it can be objectively concluded that the Subject Development, individually or in combination with other plans or projects, have not and will not adversely affect the integrity of any European Site.”*

#### (e) The extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated.

The remedial NIS now submitted to the Board (with this substitute consent application) with respect to the 25 deviations to the Permitted Development, presents a detailed examination, analysis and evaluation of the actual and likely significant effects on European sites of the 25 deviations, cumulatively and in-combination with the previously Permitted Development and other developments in the surrounding environment. The conclusion is the remedial NIS confirms that *“it can be objectively concluded that the Subject Development, individually or in combination with other plans or projects, have not and will not adversely affect the integrity of any European Site.”*

The remedial EIAR also accompanying this application for substitute consent comprehensively and robustly reaches a conclusion that the Subject Development has not resulted in, either individually, cumulatively or in-combination, any significant negative environmental effects.

No significant effects on the environment or adverse effects on the integrity of any European site have resulted from the Subject Development, and therefore none require remediation.

#### (f) Whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development.

The Applicant, with the exception of the 25 deviations to the Permitted Development to which this application for leave to apply for substitute consent relates, has implemented the permitted wind farm development as constructed to-date, in accordance with the planning permission granted. As a strategic infrastructure development, the Meenbog Wind Farm is a project of significant scale, consisting of 19 wind turbines with a total generating capacity of over 90MW, over 22km of roads (upgraded or new), and a 110kV electricity transmission substation. A significant majority of the 25 deviations for which substitute consent is being sought, only came to light as a result of a forensic analysis of the site undertaken by the Applicant and DCC. Similar deviations can occur and could come to light on other large-scale strategic infrastructure projects, were a similarly detailed retrospective analysis and comparison of as-built and permitted layouts to be undertaken.

The Applicant in this case, has complied with all pre-commencement, condition compliance obligations with DCC, and responded promptly and comprehensively to any queries or correspondence received from DCC (and any other agencies) since the commencement of construction on the Meenbog Wind Farm. The Applicant has been commended by officials of DCC by way of written correspondence dated as recently as January 2024, on the professional manner with which it managed the aftermath of the peat slide incident... *“I think overall both MKO and Planree have managed the aftermath of this unfortunate incident in a very professional manner and appear to have achieved the best possible environmental outcomes in the circumstances.”*



The applicant has not carried out any other unauthorised development, other than that for which substitute consent is now sought.

With the exception of the 25 deviations to the Permitted Development to which this application for leave to apply for substitute consent relates, the applicant has otherwise complied with the planning permission granted by An Bord Pleanála, in so far as the Permitted Development has been completed to-date.

**(g) Such other matters as the Board considers relevant.**

The Board will be aware that a peat slide occurred at the development site in November 2020. Whilst the 25 deviations the subject of this application did not cause that peat slide, and there is no assertion on the part of either DCC to the contrary, and indeed no evidence to that effect, for completeness the detail regarding that peat slide is set out in Section 3.2 of this report above, and fully and comprehensively elsewhere in the substitute consent application documents.

## 7. PLANNING ASSESSMENT

### 7.1 Overview

The Subject Development comprises of ancillary works to the Permitted Development which will ultimately increase the amount of renewable electricity onto the national grid and contributing towards Ireland's renewable energy, climate change mitigation and greenhouse gas reduction targets. As discussed in detail in **Section 6** of this report and Chapter 3 of the rEIAR, the primary reason for the majority of the 25 no. deviations that comprise the Subject Development relates to the need to often make adjustments to the internal layout of a permitted road network and ancillary infrastructure, in response to actual conditions encountered on the ground and further engineering advice that becomes available during the construction of such large-scale strategic infrastructure developments.

The Meenbog Wind Farm, as constructed to-date, including the deviations, is consistent in terms of the nature, scale, and extent of impacts to the environment as assessed in the EIAR for the Permitted Development, and as assessed in the EIA and AA undertaken by the Board. The deviations which form the Subject Development occur in similar habitats and locations to the previously assessed and permitted plans. Therefore, the Subject Development does not significantly change the nature or scale of the Permitted Development and does not materially alter the environmental impacts associated with the Permitted Development viewed on its own, cumulatively and in combination with other relevant developments including the works carried out following the peat slide.

The components of the 25 no. deviations within the Subject Development are broadly grouped into the following categories:

- Site Roads and Hardstand Areas
- Borrow Pits
- Peat and Spoil Management
- Environmental and Water Quality Mitigation Measures

#### 7.1.1 Site Roads and Hardstand Areas

A total of 16 no. deviations relate to the realignment of consented site roads and hardstand areas, including laybys, hardstand orientations and turning heads. Deviation No. 1 relates to the realignment of the main wind farm access road near the main site entrance from the N15 National Road. Deviations Nos. 3, 5, 7, 8, 9, 10, 13, 14, 21, 22, and 23 relate to the realignment of internal turbine access roads. Deviation No. 16 relates to the relocation of a turning head and deviation Nos. 19 and 20. relates to the provision of laybys. Deviation No. 12 relates to an alteration of the orientation of the consented hardstand at T15.

These deviations are realignments of elements of the previously Permitted Development and, therefore, are not considered to be significant in terms of potential to give rise to environmental impacts, and their regularisation by way of substitute consent would facilitate compliance with national policies such as NSO 8 and NPO 55 of the NPF, and local planning policy such as E-P-19, for renewable energy and wind farm developments.

##### 7.1.1.1 Main Site Access Road Realignment

Deviation No.1 concerns the entrance road off N15 (the hairpin bend). Works were carried out to construct a bypass access link here in lieu of upgrading the existing hairpin bend access road. This provides a safer and more sensible approach to the Site by eliminating a sharp, blind bend in the main entrance road to the Site. The deviation added approximately 60m of new access road built to solid formation, instead of upgrading and significantly widening an existing road with a length of 190m on a

more difficult alignment. Furthermore, the longer blades authorised by the S.146B process in June 2019 can be more safely transported on the as built road by eliminating the need to traverse the hairpin bend and providing a clear line of sight.

This deviation is ancillary to the granted development and will facilitate the completion of the Meenbog Wind Farm's construction and the transport to turbine components to the Site. It is, therefore, considered to be compliant with national, regional and local planning policy in respect of renewable energy and wind farm developments, as outlined in Section 5 above.

#### 7.1.1.2 **Turbine Access Road Realignment, Layby Provision and Turning Head Modifications.**

Deviations Nos. 3, 5, 7, 8, 9, 10, 13, 14, 21, 22, and 23 relate to realignments of internal turbine access roads. Deviation No. 16 relates to the relocation of a turning head and deviation No. 20 relates to the provision of a layby. The realignment of the access roads and the relocation of the turning head was in response to conditions on the ground and detailed design of road alignment pre-construction. The layby in deviation 20 was installed as a safety measure to allow construction traffic to pass.

Deviation No. 19 consists of an existing forestry access for harvesting, which was repurposed for locating site office and welfare facilities. These facilities will be removed upon completion of construction. It is, therefore, considered that this deviation is non-material, considering the temporary nature of facilities, given their requirement for the construction phase of the project only.

#### 7.1.1.3 **Reorientation of Hardstand**

Deviation No. 12 relates to an alteration of the orientation of the consented hardstand at T15. The natural topography on site facilitated direct access to T15 off the main spine road at this location which negated the need for the proposed access road to T15. This was achieved by rotating the hardstand by 90 degrees. As noted above, it is not unusual to need to make adjustments to the layout of certain elements, in response to actual conditions encountered on the ground during the construction of such large-scale wind energy developments. As a result of this deviation, there is no adverse on any material planning considerations, nor does it breach planning policy as its core aim is still to facilitate the provision of renewable energy.

#### 7.1.1.4 **Site Roads and Hardstand Areas Assessment**

The access road realignment (hairpin bend), realignment of site roads and the reorientation of hardstand areas have been undertaken to improve site safety and/or respond to engineering designs developed with the benefit of site investigation information that would not have been available at the planning stage, thereby demonstrating the necessity and ancillary nature of these deviations. These changes have not prevented delivery of any planning policies from national to local level, and are in fact intended to facilitate the achievement of such policy objectives.

The access road realignment and all internal site road realignments detailed above are consistent in terms of the nature, scale, and extent of potential impacts on the environment as assessed in the EIAR prepared for the permitted Meenbog wind farm, and as assessed in the EIA and AA undertaken by the Board.

The remedial NIS now submitted to the Board objectively concludes that the Subject Development, individually or in combination with other plans or projects, has not and will not adversely affect the integrity of any European Site. The remedial EIAR similarly and robustly reaches a conclusion that the Subject Development has not resulted in, either individually, cumulatively or in-combination, any significant negative environmental effects.

National planning policy, such as NSO 8 and NPO 55 of the NPF, the extant Donegal County Development Plan and the Draft Donegal County Development demonstrates an ambition to support renewable energy projects. The Draft Donegal County Development acknowledges how crucial renewable energy is in the context of climate change mitigation and adaptation and notes the potential and opportunity that County Donegal has to offer in terms of wind energy potential. This is supported by key policy objectives outlined below:

- **E-O-1:** To sustainably develop a diverse and secure renewable energy supply to meet demands and capitalize on the County's competitive locational advantage.
- **E-O-2:** To secure the maximum potential from the wind energy resources of the County commensurate with the receiving environment and local developments patterns consistent with the proper planning and sustainable development, thereby contributing to the national drive towards ensuring the security of energy supply.

It is, therefore, considered that the operation of the Meenbog Wind Farm with an approximate electricity generation capacity of approximately 90MW and the regularisation of Subject Development, would make a significant contribution towards the achievement of national renewable energy and climate mitigation targets, and will also assist in reaching the renewable energy and carbon emission reduction targets at EU level, in addition to fulfilling local policy objectives. The road realignments and hardstand reorientation were implemented in order to facilitate the successful construction and operation of the Permitted Development. These deviations continue to align with key policies, and greatly contribute to the overall goal of sustainable development through the provision of renewable energy infrastructure and supporting the transition to a low-carbon economy.

## 7.1.2 Borrow Pits

Deviation Nos. 4, 11, and 25 relate to borrow pits that were constructed in either a different location than on planning drawings (Deviation No.4) or that extended beyond the consented boundary as shown in the planning drawings for the Permitted Development.

### 7.1.2.1 Borrow Pit South of Turbine 12

Deviation No. 4 concerns the borrow pit southwest of T12. An existing forestry borrow pit was expanded to win stone on-site ahead of gaining access to the wind farm borrow pits. Excavation of the existing forestry borrow pit continued in lieu of excavation at the permitted BP1 borrow pit, which was not used due to peat stability concerns.

Following the completion of rock extraction, the borrow pit was subsequently partially restored by backfilling with peat from elsewhere on the Site. This was consistent with the consented construction methodology for borrow pits. Restoration was accomplished by creating a cell to store excavated peat with a berm constructed along the downslope (north-west) edge of the borrow pit. The borrow pit is bounded to the west and north by internal access roads which are constructed to solid formation.

Since the cessation of peat deposition, the surface of the deposited peat has revegetated with peatland species including soft rush (*Juncus effusus*), bulbous rush (*Juncus bulbosus*), Yorkshire fog (*Holcus lanatus*) and tormentil (*Potentilla erecta*). Some ling (*Calluna vulgaris*), *Polytrichum* and *Sphagnum* species are also present. Upon the recommencement of work, the borrow pit area will be reinstated in accordance with the proposals set out in the Peat and Spoil Management Plan, included in Appendix 6-5 of the rEIAR, which also applied to borrow pits approved as part of the Permitted Development.

### 7.1.2.2 Borrow Pit South of Turbine 15

Deviation No. 11 concerns the consented borrow pit 2 south of T15. Borrow pit 2 (also referred to as Borrow Pit A in the planning documents) is located south of T15 and adjacent to an internal wind farm access road. The borrow pit was excavated into existing ground, commencing at the southern end of the borrow pit.

This borrow pit was indicated on the planning drawings for the Permitted Development but has been expanded slightly beyond the originally illustrated footprint.

Since the cessation of peat deposition in the borrow pit, the surface of the deposited peat has begun to revegetate with species including soft rush (*Juncus effusus*), Yorkshire fog (*Holcus lanatus*), creeping bent grass (*Agrostis stolonifera*) and tormentil (*Potentilla erecta*). Upon the recommencement of work, the borrow pit area will be reinstated in accordance with the proposals set out in the Peat and Spoil Management Plan, included in Appendix 6-5 of the rEIAR, which already applied to the area of this borrow pit previously approved as part of the Permitted Development.

### 7.1.2.3 Borrow Pit between Turbine 13 and Turbine 16

Deviation No. 25 concerns the consented borrow pit 3 and peat storage cells/ borrow pit backfilling. The consented borrow pit was slightly repositioned during construction of the Meenbog Wind Farm to suit local topography. Borrow pit 3 is located between T13 and T16. Two pits were excavated on the eastern side of the borrow pit area and these were subsequently used to store excavated peat in accordance with the approved construction methodology for borrow pits. The remainder of the consented borrow pit has not been completed to date, however will be completed in accordance with the plans for the Permitted Development.

Since the cessation of peat deposition at this partially constructed borrow pit, the surface of the deposited peat has revegetated with species including soft rush (*Juncus effusus*) and bulbous rush (*Juncus bulbosus*), which are dominant throughout. Upon the recommencement of work, the borrow pit area will be reinstated in accordance with the proposals set out in the Peat and Spoil Management Plan, included in Appendix 6-5 of the rEIAR, which already applied to the area of this borrow pit previously approved as part of the Permitted Development.

### 7.1.2.4 Borrow Pit Assessment and Justification

Additional and extended borrow pits are considered ancillary works as part of the granted development due to their supportive role in facilitating the construction process without significantly altering the fundamental nature of the project. It is crucial to note that borrow pits are typically only temporary in nature, and are utilised only to meet the specific construction materials requirements of the project. Their temporary nature reinforces their ancillary status, as they are not permanent fixtures of the permitted wind farm but rather temporary facilities required during the construction phase. It is also crucial to note that the environmental impact of the subject borrow pits is limited to the construction phase, and proper mitigation measures have been and can continue to be employed to minimise any adverse effects on local ecosystems.

The additional and extended borrow pits as part of the subject development are not considered to be in breach of national, regional or local planning policy as they are ancillary to a wind farm development that fulfils national, regional and local planning and energy policy objectives. Planning and environmental policies at all levels recognise the importance of such developments in meeting renewable energy targets, enhancing energy security, and supporting the transition to a low-carbon economy. By facilitating the construction of the Permitted Development, these borrow pits are considered ancillary to the Meenbog Wind Farm, and therefore are considered to contribute to the achievement of these policy objectives. Borrow pits also provide a local source of construction material, reducing the need for transportation and minimising the environmental impact associated with

extracting and transporting resources from distant locations. This aligns with policies promoting efficient resource use and reducing carbon emissions.

## 7.1.3 Peat and Soil Management

### 7.1.3.1 Peat Storage Cells

Deviations Nos. 2, 15, 17 and 18 are comprised of engineered peat storage cells. The peat cell at Deviation No. 15 will be reinstated in accordance with the proposals set out in the Peat and Spoil Management Plan, included in Appendix 6-5 of the rEIAR, which also applied to borrow pits approved as part of the Permitted Development. Peat storage cells were excavated to a competent stratum and retaining berms constructed prior to being filled with peat.

### 7.1.3.2 Peat Containment Berm

Deviation No. 6 concerns a berm which was constructed to the south of T8 as a peat containment safety measure prior to constructing T8. The berm was extended from stable ground on the east side and continued to just beyond the turbine foundation at the west side. This berm is located on the uphill side of T8 spur road, hardstand and foundation. The containment berm was constructed in July 2020 in response to a peat movement that occurred upslope from T8, preventing further movement.

### 7.1.3.3 Peat Management Assessment and Justification

Peat storage cells and the peat containment berm are considered ancillary works as part of the permitted Meenbog Wind Farm development for a number of reasons. As noted above, upon recommencement of works, the prepared peat cell will be reinstated in accordance with the proposals set out in the Peat and Spoil Management Plan, included in Appendix 6-5 of the rEIAR. Therefore, these deviations are not considered to be significantly different in terms of the nature and scale of works required to implement the remainder of the permitted Meenbog Wind Farm. The temporary nature of the works to construct them, rather than their ongoing use, also ensures that the potential for consequential adverse environmental and ecological impacts, is minimised. These features were considered as temporary solutions to address short-term construction needs, and can therefore be considered as ancillary to the granted development as they could be viewed as interim measures to support ongoing construction activities. Stemming from this, this would contribute to improved site conditions and streamlined construction processes, in order to ensure that the Permitted Development becomes operational to fulfil its role as a significant source of renewable energy. These deviations have had no material effect on residential amenity, and other material planning considerations within the vicinity of the site, and therefore should be considered as such in the context of the Permitted Development.

National, regional and local planning policies prioritise environmental sustainability. Peat storage cells and containment berms facilitate responsible peatland management by providing designated areas for storing excavated peat, promoting efficient resource use and sustainable land management practices. Acknowledging key policies outlined within the Donegal County Development Plan, it is crucial to recognise the necessity and ancillary nature of these works in order to facilitate the successful operation of the Permitted Development. The NPF acknowledges that GHG emissions from the energy sector must be reduced by at least 80% by 2050 when compared to 1990 levels while ensuring a secure supply of energy exists. New energy systems and the maintenance / safeguarding of existing grid assets will be necessary for a more distributed, renewables focused energy system required to harness Ireland's considerable indigenous energy sources and *"connect the richest sources of that energy to the major sources of demand"*.

It is clear that the provision of new renewable energy generation is in line with the aims and objectives of the NPF which seeks to transition to a low carbon economy. The Subject Development forms part of

a Permitted Development, which will aid in reaching the targets of reducing GHG emissions from the energy sector and further strengthen Ireland's energy security. It is considered that the Meenbog Wind Farm is in line with the National Planning Framework. This framework projects a population increase of one million people by 2040 and therefore recognises the strain and demand this will put on Ireland's energy system. In order to ensure Ireland delivers on our renewable energy and carbon emission reduction targets, the NPF recognises the need for increased renewable energy onto the national grid.

The RSES for the Northern and Western Region states that the region has a crucial role to play in Ireland transition to a low carbon future. It is considered that the completion of the Meenbog Wind Farm would facilitate this transition and is particularly in line with **RPO 4.17** and **4.18** as outlined above. In the region, a noticeable trend has emerged to recognise and take advantage of emerging opportunities related to the shift towards a decarbonised economy, particularly in the realm of renewable energy generation and therefore the Subject Development which forms part of the Meenbog Wind Farm is considered to be in accordance with Regional Policy.

## 8. CONCLUSION

Through consideration of each deviation and its role as both a standalone development and in the context of the permitted windfarm development, it is evident that the deviations are entirely ancillary to the construction and operation of the Permitted Development. This planning report has outlined the rationale behind the deviations, emphasising factors such as technical necessity, environmental considerations, operational efficiency, and practical construction considerations.

The primary reason for the Subject Development arising in the first instance relates to the need to often deviate from layouts presented and approved in planning application drawings in response to actual conditions encountered on the ground, such as occurred during the construction of the Permitted Development. In large-scale strategic infrastructure and civil engineering projects, some deviations from planning-stage designs are not unusual due to the greater level of detail required for the preparation of detailed engineering and construction designs prior to construction, or to adapt to ground conditions encountered on-site with the benefit of site investigation information that would not have been available at the planning stage.

The remedial NIS now submitted to the Board objectively concludes that the Subject Development, individually or in combination with other plans or projects, has not and will not adversely affect the integrity of any European Site. The remedial ELAR similarly and robustly reaches a conclusion that the Subject Development has not resulted in, either individually, cumulatively or in-combination, any significant negative environmental effects.

The Permitted Development and Meenbog Wind Farm clearly and categorically comply with and facilitate the achievement of national, regional or local planning, renewable energy and climate change policy objectives, and the Subject Development is ancillary to a strategic infrastructure-scale wind farm development that fulfils national, regional and local planning and energy policy objectives. Planning and environmental policies at all levels recognise the importance of such developments in meeting renewable energy targets, enhancing energy security, and supporting the transition to a low-carbon economy. By facilitating the construction of the Permitted Development, the Subject Development contributes to the achievement of these policy objectives.

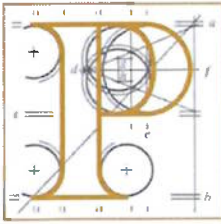
The Subject Development facilitates the construction and operation of the Permitted Development, thereby ensuring its successful operation for its 25-year permitted period. If fully operational today, the Meenbog Wind Farm would be amongst the five largest operating wind farms in Ireland, and would thereby make a significant contribution to increased renewable energy outputs, and consequently towards meeting future renewable energy, climate change and emissions reductions targets.





## APPENDIX 1

**ABP DECISION ON LEAVE TO  
APPLY FOR SUBSTITUTE  
CONSENT APPLICATION**



An  
Bord  
Pleanála

**Board Order**  
**ABP-314062-22**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Donegal County Council**

**Application for Leave To Apply For Substitute Consent**, by Planntree Limited care of MKO of Tuam Road, Galway.

**Development:** Alterations to the permitted Meenbog Wind Farm. Meenbog (and surrounding townlands), County Donegal.

## **Decision**

**GRANT** leave to apply for substitute consent under section 177D of the Planning and Development Act 2000, as amended, based on the reasons and considerations set out below

## Reasons and Considerations

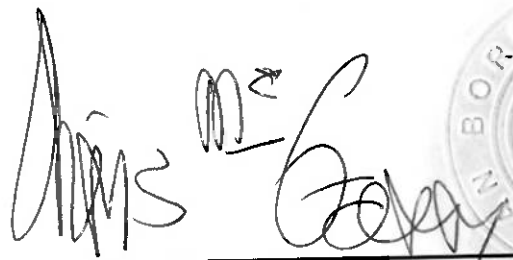
Having regard to section 177D of the Planning and Development Act, 2000, as amended, the Board is satisfied that: -

- (a) the development is one where an Environmental Impact Assessment, a determination as to whether Environmental Impact Assessment is required, and an Appropriate Assessment is required, and
- (b) exceptional circumstances do exist by reference, in particular, to the following:
  - (i) The fact that the regularisation of the development would not circumvent the purpose and objectives of the Habitats Directive,
  - (ii) The nature and scale of the subject development,
  - (iii) the ability to carry out an Environmental Impact Assessment and Appropriate Assessment and to provide for public participation has not been substantially impaired,
  - (iv) the submission of a remedial Environmental Impact Assessment and remedial Natura Impact Statement would facilitate an assessment of the potential for the remediation of any significant effects on the environment or adverse effects on the integrity of European sites,
  - (v) the limited nature of the actual/likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the development,

A handwritten signature in black ink is located in the bottom right corner of the page. To its left is a faint, circular stamp, likely an official seal of the Board, though the text within it is illegible.

- (vi) the extent to which such significant effects, if any, on the environment can be remediated, and
- (vii) the applicant is making reasonable efforts to regularise the planning status of the development.

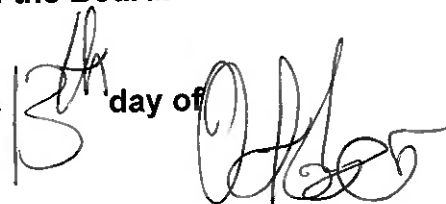
Having regard to the foregoing, it is considered that exceptional circumstances do exist such that it would be appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent in relation to the site outlined in this application and as described in the documentation submitted.



**Chris McGarry**

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

Dated this 13<sup>th</sup> day of April 2023.



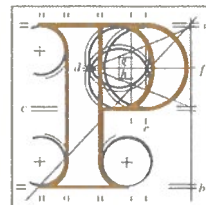


## **APPENDIX 2**

### **ABP EXTENSION OF TIME TO LODGE SUBSTITUTE CONSENT**

**Our Case Number:** ABP-318669-23

**Your Reference:** Planree Limited



**An  
Bord  
Pleanála**

MKO  
Planning & Development Consultants  
Tuam Road  
Galway  
Co. Galway  
H91 VW84



**Date:** 12 JAN 2024

**Re:** Request for an Extension of Time for an Application for Substitute Consent for a windfarm.  
Meenbog, Co. Donegal.

Dear Sir / Madam,

An order has been made by An Bord Pleanála determining the above-mentioned matter under the Planning and Development Acts 2000 to 2022. A copy of the order is enclosed.

**Please note that the final date for the making of an application for substitute consent is the 2<sup>nd</sup> day of April, 2024.**

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Board Direction and Board Order in respect of the matter on the Board's website ([www.pleanala.ie](http://www.pleanala.ie)). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

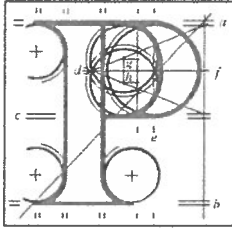
A further enclosure contains information in relation to challenges by way of judicial review to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

Yours faithfully,

Miriam Baxter  
Executive Officer  
BP100N

<b>Tel</b>	<b>Tel</b>	(01) 858 8100
<b>Glaó Áitiúil</b>	<b>LoCall</b>	1800 275 175
<b>Facs</b>	<b>Fax</b>	(01) 872 2684
<b>Láithreán Gréasáin</b>	<b>Website</b>	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
<b>Riomhphost</b>	<b>Email</b>	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902



An  
Bord  
Pleanála

**Board Order**  
**ABP-318669-23**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Donegal County Council**

**Application for an Extension of Time to Apply for Substitute Consent by**  
Planree Limited care of MKO of Tuam Road, Galway pursuant to the determination  
by An Bord Pleanála on the 13<sup>th</sup> day of October, 2023, granting the owner/operator  
leave to apply to An Bord Pleanála for substitute consent.

**Development:** Alterations to the permitted Meenbog Wind Farm. Meenbog (and  
surrounding townlands), County Donegal.

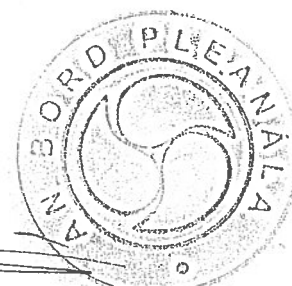
## **Decision**

**Grant an extension of the period for the making of an application for substitute  
consent under section 177E (4) of the Planning and Development Act, 2000, as  
inserted by section 57 of the Planning and Development (Amendment) Act  
2010, for a further period until the 2<sup>nd</sup> day of April, 2024, based on the reasons  
and considerations set out below.**

## Reasons and Considerations

The Board noted the request made for an extension of the period for the making of the application for substitute consent in this instance, and considered that an extension of time until the 2<sup>nd</sup> day of April, 2024 would be reasonable and appropriate to enable completion of application documentation to the necessary standard.

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**Liam Bergin**

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this 12<sup>th</sup> day of January 2024**





## **APPENDIX 3**

**EPA LETTER**

**(28<sup>TH</sup> SEPTEMBER 2021)**



South/South West Region  
Environmental Protection Agency  
Regional Inspectorate, Inniscarra  
County Cork, Ireland

Cigireacht Reginach, Inis Cara  
Contae Chorcaí, Éire

T: +353 21 487 5540

F: +353 21 487 5545

E: [info@epa.ie](mailto:info@epa.ie)

W: [www.epa.ie](http://www.epa.ie)

LoCall: 1890 33 55 99

Via e-mail to [michaelmurnane@turnkeydev.com](mailto:michaelmurnane@turnkeydev.com)

28<sup>th</sup> September 2021

To: Planree Limited  
Lissarda Industrial Estate  
Lissarda  
Co Cork

### **EPA Reference Number ELD200005/Corr(2) /Planree**

The EPA Direction issued pursuant to Regulation 8(1) of the European Communities (Environmental Liabilities) Regulations 2008 (as amended), dated 1<sup>st</sup> April 2021 required, inter alia, that;

- 1. Planree Limited** shall arrange for the completion, by an appropriately qualified independent person, of a revised and updated peat stability assessment in line with best practice and guidance and addressing the conclusions and recommendations of the EPA report.
- 2. Planree Limited** shall arrange for the submission of a report on the assessment in 1 above which shall provide all relevant information and evidence necessary for the EPA to assess the adequacy of the peat stability assessment. This report shall be submitted by the 30<sup>th</sup> April 2021

The Environmental Protection Agency refers to email correspondence dated 27/08/2021 to the Agency from MKO, consultants acting on behalf of Planree Limited, received in response to EPA correspondence issued 29<sup>th</sup> July 2021 2021, attaching *Peat Stability Assessment of Meenbog Windfarm Site* (August 2021; Fehily Timoney).

I am to advise that the revised Peat Stability Assessment prepared by FTC and submitted to the EPA pursuant to 1 and 2 above addresses the conclusions/recommendations set out in previous EPA correspondence. The issues identified in correspondence from the EPA on the 29<sup>th</sup> July 2021 have been satisfactorily addressed. Compliance with the EPA Direction from 1<sup>st</sup> April is now confirmed.

It is important that the mitigation measures proposed are implemented for the remaining works to be completed at the site. The detailed design for civil works should be informed by this updated assessment.

This correspondence is without prejudice to any legislative obligations on the operator other than under the Environmental Liability Regulations, or interactions with other Regulatory Authorities in respect of Meenbog Wind Farm. You are reminded of your obligations under Regulation 7(1) of the European Communities (Environmental Liability) Regulations 2008 (S.I. 547 of 2008) to take necessary preventive measures to deal with any imminent threat of environmental damage.

Dated this 28<sup>th</sup> day of September 2021

Signed on behalf of the Agency:



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Jim Moriarty  
Senior Inspector  
Office of Environmental Enforcement, EPA



## **APPENDIX 4**

### **DCC LETTERS**



**Comhairle Contae  
Dhún na nGall**  
Donegal County Council

11<sup>th</sup> July 2022

Mr. Michael Murnane  
Planree Ltd.,  
Lissarda Industrial Park,  
Lissardagh,  
Co. Cork  
P14 YN56

Ref. No. 22/48A

**Re: Meenbog Wind Farm – Notices under Section 12 of the WPA**

Dear Mr. Murnane,

Further to your letter of 16<sup>th</sup> May 2022, in relation to the above, I write to advise you of the Council's response, taking into account the findings of the most recent site visit, on Friday 8<sup>th</sup> instant, which can be summarised as follows:

1. The restoration works physically completed in mid-May, including the seeding of exposed peat, have now reached the stage where the desired vegetation cover has become established in most areas. The planting of saplings in open areas along the banks of the stream has also been successful, although there are a few areas where additional planting may be recommended.
2. The area below Wall 1, the first area to be seeded, remains in good condition and has taken on the appearance of a natural, undisturbed habitat.
3. The area immediately above Wall 1 featuring a small pond, has shown an improvement in vegetation cover since the previous inspection.
4. Between Wall 1 and Wall 2, there are extensive areas which had been sown in mid-May and there are encouraging signs of growth along the banks of the stream which is clearly defined, with clean gravel evident in its bed.
5. The area between this section and the right turn up to the scar area and Wall 3 was restored in mid-May and grass is now growing through the coir matting in most areas.
6. The small stream coming down the hill from wall 3 has been joined to the main channel at an acute angle, which minimizes the risk of bank erosion, and there are signs of vegetation cover becoming established.
7. The section leading uphill to Wall 3 was reseeded late last year but any growth emerging at that time has since died away, requiring further reseeding to be done. The trees planted in this area have survived.

I believe Donegal Co. Council is now in a position to close out all of the Section 12 notices issued, as all of the seeded areas have shown encouraging signs of growth and establishment, (which reduces the likelihood of any significant sediment release), and the monitoring data obtained for the Shruhangeave and Mournebeg has been satisfactory.

We would like to commend your company and the staff involved in the restoration work, which has been very well designed and executed, and for their courtesy and co-operation since the incident began. We would also encourage you to maintain your commitment and place a strong emphasis and vigilance on the current surface water quality monitoring programmes, as the project moves into the next phases.

Yours sincerely



Joe Ferry, (Dr)  
A/Senior Executive Scientist



Photo 1- area where Wall 2 was located, showing new vegetation growth, 8/7/22



Photo 2 - area upstream of Wall 2 was located, showing grass growth in coir matting, 8/7/22



Photo 3 – sapling growing in area where wall 2 was located, 8/7/22



Photo 4- confluence of stream from Wall 3 & Sruhingarve stream, 8/7/22



Photo 5 - Sruhingarve stream, looking up towards Wall 3, 8/7/22





31<sup>st</sup> May 2022

Mr. Michael Murnane  
Planree Ltd.,  
Lissarda Industrial Park,  
Lissardagh,  
Co. Cork  
P14 YN56

Ref. No. 22/14A

**Re: Meenbog Wind Farm – Notices under Section 12 of the WPA**

Dear Mr. Murnane,

Further to your letter of 16<sup>th</sup> May 2022, in relation to the above, I write to advise you of the Council's response, taking into account the findings of the recent site visit on Friday 20<sup>th</sup> instant which can be summarised as follows:

1. While the restoration works may have been physically completed, including the seeding of exposed peat, much of this work has been recent and as yet it is not possible to conclude that the desired vegetation cover will become established.
2. The area below Wall 1 was the first area to be seeded, with the stream pathway reinforced by coir matting prior to Christmas 2020, and this has returned to what looks like its former condition.
3. The area above Wall 1 features a small pond, which wasn't there previously and there are areas of exposed peat which are not yet covered in vegetation.
4. Between Wall 1 and Wall 2, (the latter which doesn't exist as a barrier anymore), there are extensive areas which have been sown but in which there are no signs of growth as yet, but the stream is clearly defined.
5. The area between this section and the right turn up to the scar area and Wall 3 has only recently been restored and coir matting is visible, with no new growth as yet.
6. The section leading up hill to Wall 3 was reseeded late last year but any growth emerging at that time has since died away, requiring further reseeding to be done. The trees planted in this area have survived.

In looking at the conditions in the last of the 3 notices, Ref No: 21/14, I would draw your attention to the following, in light of the above observations:

Schedule A

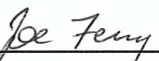
1. *The Holder shall carry out restoration works in order to eliminate or limit the release of polluting matter (peat or sediment) from the areas of the peat slide, and down gradient of it, where material has been deposited and mitigate against the further dispersal of peat and sediment, deposited along the banks of the Shruhingarve stream, by the water-course through and beyond the confines of the Meenbog Wind Farm site.*

Cuir freagra chuig: Ionad Seirbhísí Pobail, Bóthar Neil T. Uí Bhléine, Leitir Ceanainn, Contae Dhún na nGall F92 TNY3  
Please reply to: Public Service Centre, Neil T. Blaney Road, Letterkenny, Co. Donegal F92 TNY3

I believe it would be premature for us to close out this notice until the recently seeded areas show some signs of growth and establishment, in order to reduce the likelihood of significant sediment release. If the weather and growing conditions are suitable over the coming weeks and months, we can organise a further site visit and would have no difficulty in closing out the notices if there has been improvement in that regard.

I would like to commend your company and the staff involved in the restoration work, which has been very well designed and executed so far, and for their courtesy and co-operation since the incident began. The past month hasn't been very favourable in this part of the country for growth, which has set back final approval, but hopefully we'll see some heat to remedy that shortly.

Yours sincerely

  
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Joe Ferry, (Dr)  
A/Senior Executive Scientist

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