

Ms Sorcha Skelly
An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

8 June 2021

Our ref: MAUR
Your ref: ABP-309231-21
LCCC ref: EC60/20

Re: Section 5 Declaration whether the underground electricity cable grid connections is or is not development and is or is not exempted development. Mauricetown Wind Farm, Glenduff, Darrery, Coolnanoglagh, Ballagh, Co. Limerick

Dear Ms Skelly,

I acknowledge receipt of your correspondence dated 4 June 2021 and note that Mauricetown Wind Farm Limited (Mauricetown) wishes to make a submission to An Bord Pleanála in relation to the above matter.

The submission by Limerick City and County Council (LCCC) to An Bord Pleanála states the following:

Whereas a question has arisen as to whether

- (1) the underground electricity cable grid connections and associated works from the Mauricetown Wind Farm 38kV Substation to the Tullylease 38 kV Substations in County Limerick*
- (2) the underground electricity cable grid connections and associated works from the Tullylease 38 kV substation to the electricity cable grid connection which runs from Dromdeeveen Wind Farm 38 kV substation to the Glenlara 110 kV Substation in County Cork as far as the Limerick County/Cork County border at Glashawee river and*
- (3) the underground electricity cable grid connections and associated works from the Dromdeeveen Wind Farm 38kV Substation to the Glenlara 110 kV Substation in County Cork as far as the Limerick County/Cork County border at the Glasawee River*

[is or is not development and is or is not exempted development]

We address these points in turn as follows:

- (1) the underground electricity cable grid connections and associated works from the Mauricetown Wind Farm 38kV Substation to the Tullylease 38 kV Substations in County Limerick*

This precise matter has been dealt with by An Bord Pleanála, case reference RL91.308071 and a

decision that the development in question is development and is exempted development was made on 31 March 2021.

We are advised that, consistent with recent case law on this matter, the existing Section 5 Declaration cannot be the subject of a further declaration at any variance to the existing declaration when the underlying facts and circumstances remain as they were at the time the original declaration was made.

More specifically, we refer to the High Court decision in *Narconon Trust v An Bord Pleanála* [2020] IEHC 25 (*Narconon*) in which the High Court held that, by seeking section 5 declarations on a question which had already been the subject of a separate prior section 5 declaration, the relevant parties were "questioning the validity" of the decision made by the relevant planning authority in the prior section 5 declaration.

We are advised that this judgment is clear authority for the position that the effect of section 50 of the Planning and Development Acts 2000 (as amended) (**the Planning Acts**) is such that, when performing its functions in accordance with Section 5, An Bord Pleanála lacks the jurisdiction to decide a question if that question is, in fact, an attempt to challenge the validity of a prior decision by a local authority made by it in the performance of a function under the Planning Acts, other than in accordance with the mandatory requirements of section 50.

As such, subject to our advice, it is our respectful submission that An Bord Pleanála does not have jurisdiction to determine this appeal, given the absence of any change in relevant facts or planning circumstances.

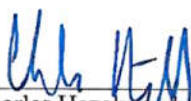
(2) the underground electricity cable grid connections and associated works from the Tullylease 38 kV substation to the electricity cable grid connection which runs from Dromdeeveen Wind Farm 38 kV substation to the Glenlara 110 kV Substation in County Cork as far as the Limerick County/Cork County border at Glashawee river

The matter of the cable works associated with the connection of the Tullylease 38 kV switching station to the existing electricity distribution network is included within planning consent 17/338 issued by LCCC on 31 August 2017.

(3) the underground electricity cable grid connections and associated works from the Dromdeeveen Wind Farm 38kV Substation to the Glenlara 110 kV Substation in County Cork as far as the Limerick County/Cork County border at the Glasawee River

The matter of the 38 kV cable that forms part of the pre-existing electricity distribution network is not a matter related to Mauricetown Wind Farm. It is the understanding of Mauricetown Wind Farm that the cable that is referred to has formed a part of the electricity distribution network and been in continuous operation since 2011.

Yours sincerely,



Charles Hazelwood
Director, Mauricetown Wind Farm Limited