

This Report has been cleared for submission to the Board by Programme Manager, Brian Meaney.

Signed:  Date: 3rd July 2025

	OFFICE OF ENVIRONMENTAL SUSTAINABILITY
REPORT OF THE TECHNICAL COMMITTEE ON OBJECTIONS TO PROPOSED DETERMINATION	
TO:	BOARD OF DIRECTORS
FROM:	Technical Committee WATER, ENERGY & BUSINESS SUPPORT
DATE:	03 JULY 2025
RE:	Objection to Proposed Determination for DATA AND POWER HUB SERVICES LIMITED, Peamount Road, Newcastle, Dublin, IEL Reg: P1165-01

Application Details	
Classes of Activity (under EPA Act 1992 as amended):	2.1 Combustion of fuels in installations with a total rated thermal input of 50 MW or more.
Licence application received:	27 October 2021
PD issued:	12 December 2024
First party objection received:	0
Third party objection received:	1
Submissions on objections received:	0
Regulation 36(1) extension of time:	1 May 2025

Company

The licence application relates to Data and Power Hub Services Limited (hereafter referred to as the applicant). The licence application is for an operation consisting of an information and communication technology (ICT) installation and power generation installation at Peamount Road, Newcastle, Dublin.

The ICT installation will consist of two buildings, both two-storey. In the event of loss or reduction in supply of electricity from the national grid, the ICT installation will have 36

no. standby generators available to provide emergency power. Otherwise, the generators will only operate for testing and maintenance purposes. Each generator will run on hydrotreated vegetable oil (HVO) and will operate less than 500 hours per annum.

The power generation installation, consisting of seven dual fuel reciprocating internal combustion engines, will have a total output of approximately 116 Megawatts electrical (MWe). The power generation installation will have the capability to operate 24 hours a day, 7 days a week, however, actual operation will be non-continuous and correspond to periods of high grid demand. It is designed as a peaking plant to provide electricity to the national grid during periods of low supply. The power generation installation will be run on natural gas during normal operation and HVO during abnormal/emergency conditions.

The applicant applied to the Agency for an Industrial Emissions Licence as the combined capacity of the power generation installation and ICT installation exceeds the 50 Megawatt thermal input (MWth) threshold of Class 2.1 First Schedule of the Environmental Protection Agency Act 1992, as amended (hereafter referred to as the EPA Act).

There were five submissions received in relation to the application and these were considered by the Director at PD stage.

Consideration of the Objection

The Technical Committee (TC), comprising of Katelyn Grant (Chair), and Rebecca McGovern, of OES, have considered all of the issues raised in the objection and this report details the Committee's comments and recommendations following the examination of the objections and the documents associated with the industrial emissions licence application.

This report considers the third party objection received.

The objections raised are summarised below. However, the original objection should be referred to for greater detail and further expansion of particular points.

Third Party Objection

One Third Party Objection was considered from Dr Colin Doyle.

The TC acknowledges that an Oral Hearing (OH) was requested by the third party objector, Dr Doyle. The Agency denied this request on 1st April 2025 as the request did not meet the criteria to justify an OH. This memo is published on the EPA public website for reference.

The objection is primarily a discussion on the impact of the GHG emissions of this installation in addition to similar installations in the context of the Climate Action Plan 2024 (CAP24).

The TC will assess direct objections to the written conditions of the proposed determination (PD), published on 12 December 2024. The TC has interpreted points 22, 24, 25, 27, 29, 30, 34, 35 and 54 to 57 to be direct objections to the PD and predominantly

relate to the mitigation measures proposed under 'Condition 7 Resource Use and Energy Efficiency' and air quality.

Further points raised in the objection which relate to information presented in the Inspector's Report (IR), the objector's opinion on the Agency's decision making process in granting the PD, and additional broader commentary made by the objector will be generally addressed by the TC thematically.

Please note that some terms are used interchangeably in this report. The ICT and Power Generation installations will be also referred to as facilities and the ICT installation will be referred to on occasion as a Data Centre (DC). This is in line with the language used in the objection.

The Technical Committee (TC) wish to clarify that any objection or submission on objection made to the Agency in relation to a licence application, can only be made to the Proposed Determination (PD), as approved by the Board of the Agency. Therefore, the points raised by the objector in relation to the Inspector's Report (IR) have been taken into consideration when evaluating objections in this Technical Committee Report (TCR) but are not discussed in detail in this report.

IR commentary and GHG Emissions Impact

In points 1 and 2 of the objection, Dr Doyle, the objector, references the planning applications of the Power Generation Facility (PGF), Data Centre (DC) and substation (SD20A/0058, SD20A/0324 and ABP 309773-21, respectively). The objector states that the PGF was not subject to a climate impact assessment but he notes an Environmental Impact Assessment Report (EIAR) was prepared for both the DC and substation installations "*which purported to be cumulative assessments*". The objector comments that the IR is misleading by inferring that EIARs contained a cumulative assessment, inclusive of all the three projects. The objector notes that GHG figures, in addition to a climate impact assessment for the PGF, was obtained by the Agency in a request for further information (RFI, referred to as FI throughout the report), rather than through their planning permission EIARs.

Technical Committee's Evaluation:

The statements made by the objector are noted. Information submitted for planning applications in addition to the granting of planning permissions is beyond the scope of this industrial emissions (IE) licence application. The TC has no further comment as no direct objection to the PD has been raised within these points.

Reason for Decision:

The TC proposes no change and has reached its conclusion for the following reason:

- Planning permission requirements are outside of the scope of this licence application and therefore the TC has no further comment in relation to this.

Recommendation: No change

In objections points 4, 12, 13, 14, 16, 17, 18, 20 and 21, the objector comments on the representation of GHG emissions and their impact in the IR. The objector states it was regrettable that section '6. Emissions' of the IR did not include GHG emissions nor climate impact. The objector notes that it would have been informative to the public if a copy of both Table 4 *Carbon Intensity of Natural Gas and National Grid Electricity, 2026 – 2030* and Table 5 *Predicted Direct and Indirect GHG Emissions For The Facility* were included in the IR from the applicant's response to the FI request in September 2024. The objector states the portrayal of direct and indirect GHG emissions from the installation presented in the IR was not effective and tended to understate the climate impacts. The objector comments that presenting climate impacts as a percentage of the indicative emissions ceiling in 2030 would have been "*a reasonable method for assessing impact relative to the CAP24 target rather than as a percentage of the sectoral emissions in 2023, as was done in the IR section 15.4.7*". In point 14, the objector describes the percentage of the 2030 electricity emissions ceiling for the direct PGF emissions (14% of ceiling) and the indirect ICT facility emissions (2.6% or 11% of the ceiling based on the FI assumption or CCGT assumption respectively). The objector notes these are significant percentages of the emissions ceiling. Similarly, the objector states that the provision of the electricity sectoral emission data for 2022 and 2023 "*without qualifying comments tended to create the impression of rapid emissions reductions*." He notes these reductions in electricity emissions are due to imports from the UK which can't be relied upon. In points 20 and 21, the objector makes comments on the "*selective references*" made to the Government Statement on The Role of Data Centres in the IR ¹. The objector expresses that these inclusions were seeking to justify the granting of an IE licence despite its climate impact. He states "*One of the core principles in the Government Statement relates to a preference for data centres which can demonstrate renewables additionality*" and that this was not referenced in the FI from the applicant or the IR.

In point 15, the objector states neither the FI nor IR consider criteria for assessing the scale of climate impact (e.g IEMA guidelines). The objector voices that, given both the indirect and direct GHG emission percentages of the sectoral emissions ceiling, in the context of Ireland's CAP24 target, its adverse impact is significant according to IEMA guidelines.

Technical Committee's Evaluation:

The TC acknowledge the objector's comments on the expression of GHG emissions as a percentage of the 2030 electricity emissions ceiling. The TC wishes to note that section '6. Emissions' of the IR is for regulated emissions of which GHG emissions are not. The TC has no further comment on this as the points made by the objector are not direct objections to the PD. In the opinion of the objector, the Agency did not fully comprehend the significance of the climate impact of the PGF and the ICT facility, however the IR states it is significant. Presented in the climate section of the IR 15.4.7 "impact of the direct emissions from the installation and other sources will have significant cumulative

¹ Government Statement on the Role of Data Centres in Ireland's Enterprise Strategy, 2022.

effects on climate.” “The direct, indirect and cumulative effect of CO₂ emissions on climate are significant and mitigation measures are therefore required.” The significance is understood. Mitigation factors are included in the licence for the licensable criteria of the Agency to offset this impact to a point where the activity could occur without causing environmental pollution, subject to compliance. GHG emission quantity falls outside the scope of the licensable powers of the Agency. The TC notes the objector’s points on the main factors driving the electricity sector’s emissions decline. The TC also notes the objector’s opinion of the references made to the government statement on the role of data centres but has no further comment.

In response to point 15, the TC believes the objector is referring to the Institute of Environmental Management and Assessment guidelines when they mention the IEMA guidelines. The IEMA is a global professional body. The EIA process is prescribed by the EIA directive, but it does not prescribe any specific tools or guidelines to be followed. The objector’s preference for the portrayal of significance in accordance with these guidelines is noted. The TC has no further comments.

The TC wish to clarify that the points raised by the objector in relation to the IR are noted and the TC has no further comment.

Reason for Decision:

The TC proposes no change and has reached its conclusion for the following reason:

- The IR climate impact assessment was sufficient therefore the TC has no further comment in relation to this.

Recommendation: No change

Mitigation, Emission Trading System (ETS) and Condition 7

Objection points 22-29 detail the workings of the European Union (EU) Emission Trading System (ETS). The objector argues that EU ETS is not valid mitigation for the GHGs produced directly and indirectly by the PGF and DC. Dr Doyle states “*As the Agency is aware, the ETS operates on an EU wide basis with the objective of achieving targeted reductions in GHG emissions from the overall EU ETS sector. There is a robust implementation mechanism based on annually declining emissions allowances which guarantees that the reduction target will be achieved. There is however no mechanism within the ETS to drive emission reductions in a member state to match any national targets which may apply, such as those in CAP24. Nor is there any mechanism in the ETS to force individual operators to achieve reductions in their GHG emissions.*” In addition, Dr Doyle states “*The PGF and data centre would be constructed in accordance with best available technology and energy efficiency principles. This leaves no scope for emissions reductions*”.

Points 30-35 of the objection are related to the proposed Condition 7. The objector states “*condition 7 attempts to mitigate climate impact in the national context but is in fact incapable of achieving any significant mitigation*”. The objector explains that the PGF and the data centre are already designed in accordance with current energy efficiency

principles and that the gas engine efficiency of at least 44% outlined in Condition 7.1.3 has already been factored into the project design and emissions calculations.

It is the opinion of the objector that given the project's new design, significant efficiency gains are unlikely to be identified in energy efficiency audits prescribed in Condition 7.2. It is the opinion of the objector that compliance with Condition 7.3 can be met by submitting a report "*confirming that there are negligible opportunities for using alternative energy*". The objector states that Condition 7.4 of the PD requires that the applicant must "have regard to" the national climate action plan and that this condition imposes no legally binding obligation. It is the opinion of the objector, that this is an attempt by the Agency to transfer their obligations under Section 15 onto the applicant.

Technical Committee's Evaluation:

The objector's point, that the EU ETS is not specific to CAP24 targets is valid. However, the system's intent is to drive decarbonisation and reinvest in decarbonisation efforts throughout the EU, which inherently, will benefit Ireland. As part of the EU ETS revision, Member States are required to spend all revenue on climate-related projects. The installation, as described in the IR, will possess an ETS permit as it has direct GHG emissions. The installation's indirect emissions, through their consumption of energy from the grid, are also captured by the ETS. Similarly, all power plants dependent on fossil fuels which contribute to the grid in Ireland must have ETS permits in place. With financial repercussions for not decarbonising increasing each year, it is in the company's best interest to reduce their direct GHG emissions. The EU ETS incentivises fossil fuel plants supporting the grid to decarbonise in the same way. Therefore, the TC believes the EU ETS is a valid mitigation for GHG emissions in this case. In April 2025, the EPA's preliminary analysis of GHG emissions in 2024 from the EU ETS has shown a 50% decrease in emission for the relevant sectors in Ireland since establishment ².

In response to the Condition 7 objection points raised, all licence conditions are legally enforceable by the Agency if not complied with by the licensee. The recommendations of the Condition 7.3 feasibility study must be submitted to the Agency within six months for evaluation. Energy audits, mandated by the Energy Efficiency Directive (EU/2023/1791), can be requested at intervals as required by the Agency's Office of Environmental Enforcement (OEE). The recommendations from these audits and the 'Alternative Energy Sources' feasibility study will be incorporated into the 'Schedule of Environmental Objectives and Targets' under Condition 2.2.4. This schedule must include time frames for achieving set targets and is required to be reviewed annually. Therefore, compliance will be ongoing, not just after the initial six-month submission. However, to strengthen this the TC recommends the addition of a condition for the feasibility study similar to Condition 7.2.5 of the PD for repeating the task at intervals as required by the Agency. As Ireland's energy landscape evolves and the pressure of EU ETS increases, Condition 7 will provide more opportunity to mitigate climate impacts.

Condition 7.1 incorporates the requirements of the Large Combustion Plant Commission Implementing Decision (CID/2021/2326) which serves as the key reference for setting licence conditions for installations and represents current best practice in the industry.

² [EPA's preliminary analysis of GHG emissions in 2024 from EU ETS, April 2025.](#)

CIDs are revisited every 8 years to enhance the overall environmental outcomes and licences that do not meet the updated CIDs are then amended accordingly. Condition 11.1 and 11.2 further supports the enforceability of all reports required by the Agency, thereby ensuring effective outcomes for the Agency's OEE.

The objector's opinion that Condition 7.4 is an attempt by the Agency to transfer their obligations under Section 15 onto the applicant may be a misunderstanding. Condition 7.4 is incorporated to ensure the licensee remains mindful of CAP when fulfilling the requirements of Condition 7.

The TC believes there is insufficient justification to halt the PD due to the GHG emissions from the installation in the context of the sectoral emissions ceiling. However, the objector's point that even this individual project contributes a significant percentage of that ceiling is valid, despite the differences in calculations between the applicant and the objector (discussed in the TC's next response). There is no denying the contribution this project makes to the 2030 ceiling. The applicant's own calculation indicates that in 2030, the installation's total GHG emissions would account for 8.6 % of the electricity sector's emissions ceiling. The national grid is expected to incorporate more renewables and greater capacity in the future. The ICT facility should therefore be powered almost entirely by the grid with little need for the HVO generators, which would come online if requested by EirGrid when the grid is under pressure.

The TC proposes the addition to Condition 7 to enhance and improve its enforceability and effectiveness as an appropriate mitigation measure for climate impact.

Reason for Decision:

The TC proposes the below changes to Condition 7 and has reached its conclusion for the following reason:

- To ensure compliance with the licence conditions.
- In the interest of the protection of the environment.

Recommendation:

Append the following to Condition 7.3 as follows:

Condition 7.3.4: The feasibility study must be repeated at intervals as required by the Agency.

GHG Calculations

In points 3, 5, 6, 7, 8, 9, 10, 11 and 12 the objector discusses the GHG data submitted by the applicant following an Agency's FI request. The objector's analysis suggests that the GHG emissions data were underestimated by a factor of two for the direct GHG emissions and by more than a factor of three for indirect GHG emissions. Dr Doyle

identifies another smaller error in the assumption of a declining gas emissions factor by 2030, based on the assumed growth in biomethane as a fuel. Dr Doyle argues that meeting the CAP24 target for biomethane by 2030 is unlikely and, even if achieved, it would not contribute to decarbonisation of electricity generation due to policy that renewable gases would be allocated for large heat loads.

"For calculation of indirect emissions the applicant has assumed that all of the targets in CAP 24 are achieved, and consequently uses a low emission factor of 100g/KWh for 2030. This assumption, which is commonly made in EIARs, is highly questionable."

The objector believes that new indirect emissions for Data Centres connected to the grid should be calculated at a higher emission factor due to their use of fossil fuels, until renewable electricity growth is on track.

Technical Committee's Evaluation:

This is not a direct objection to a Condition in the PD and so the TC's commentary will be limited. The TC firstly notes that the Agency's licensing remit does not specify defined limits for tonnes of carbon dioxide (CO₂) emissions per year. Therefore, the Agency can assess the GHG emissions of an installation and mitigate where possible but specific limits are not applied within a licence. As identified in the IR, the indirect and direct CO₂ emissions from the installation are considered to be significant and thus warrant mitigation. The objectors' findings, as outlined above, do not alter this assessment.

Secondly, the TC verified the source of the initial carbon intensities used by the applicant, which were taken from published SEAI data³ and EPA reports⁴. Government policies on renewables and biomethane⁵ are in place, demonstrating a commitment to greater percentages of both in the overall energy network. This task falls outside the Agency's remit. As noted by the objector in point 8, the use of lower emission factors for future years, based on Ireland's 2030 climate commitments, is common practice. The TC notes that this practice assumes all climate policy targets will be implemented, which is optimistic.

Finally, upon examining the calculations submitted by the applicant, the TC identified minor differences when attempting to replicate the calculations used by the applicant. The consultant provided Gigawatt hour (GWh) figures for annual PGF usage across natural gas, HVO, ICT facility generator use and national grid electricity consumption. It appears these figures were then multiplied by year-on-year declining emission factors, reflecting the assumption of Ireland meeting its climate commitments. However, when applying calculation methods used by the EPA emissions teams, which the TC believes the objector used, the TC similarly calculated higher GHG emission figures based on the maximum potential annual natural gas usage. This usage figure was provided by the applicant in section 4.6 of the application form and referenced in the IR in Table 8.1. The Agency does not currently prescribe a specific calculation method for applicants. Applicants are required

³ [SEAI, Conversion Factors](#)

⁴ [Ireland's National Inventory Submissions 2025, EPA.](#)

⁵ National Biomethane Strategy, 28 May 2024.

to provide accurate and factual information to the Agency for assessment. As noted in the first paragraph of this response, since the emissions were already deemed to be significant following the inspector's assessment, any increase in these figures would not alter the overall conclusions.

Therefore, the TC acknowledges that the points raised above are valid, but they do not provide sufficient grounds to refuse or reject this licence at this time.

Reason for Decision:

The TC proposes no change and has reached its conclusion for the following reason:

- To ensure the accuracy of information in Agency assessments and documentation.

Recommendation: No change

Cumulative Climate Impact

Dr Doyle discusses the impact of this installation in terms of its contribution to the 2030 emissions ceiling. In point 12, the objector states *"Table 5 in the FI response presented the calculated direct and indirect GHG emissions from 2026 to 2030, along with an indication of the scale of the impact, in terms of the percentage of the emissions ceiling for the Electricity Sector in 2030. It is evident from this table submitted by the applicant that emissions would be quite significant in 2030, amounting to 8.6% of the emissions ceiling, even with the underestimations mentioned above."* In point 14, Dr Doyle presents his calculations for the direct emissions from the PGF and indirect emission from the DC in the context of the 2030 emissions ceiling. Dr Doyle estimates that the emissions from the PGF will account for 14% of the total 2030 emissions ceiling. In point 19, Dr Doyle states *"The IR goes on to discuss the Climate Action and Low Carbon Development (Amendment) Act 2021 and the legally binding 51% reduction in national GHG emissions by 2030 (re 2018), and the carbon budgets for the Electricity Sector. EPA projections of exceedance of these sectoral budgets are referred to, from which can be reasonably concluded that the emissions from the PGF and Data Centre will add to these exceedances."*

In points 49-53, Dr Doyle discusses cumulative climate impact and states that while a cumulative impact assessment was included in the air quality analysis, no cumulative climate assessment was conducted. Dr Doyle notes that, although Ireland has legally binding GHG emission reduction targets, there is currently no legislative mechanism to centrally ensure these targets are met. Instead, individual projects are assessed independently by the competent planning or licensing authority. The objector states *"Alignment with CAP24 is provided for in the legislation by the relevant bodies performing their functions in accordance with Section 15 of the Climate Act (as amended in 2021)"*. It is the opinion of Dr Doyle that the EPA, despite not having been designated formal responsibility in this matter, is positioned as the only state body with ready access to emissions data from both existing and proposed developments. Dr Doyle suggests that

the EPA consider how they could utilise this data to ensure licensing decisions, made by the Agency, align with the current Climate Action Plan, the National Long-Term Climate Strategy, and the Agency's overall core purpose of protecting the environment. In addition, the objector states that the consultants tasked with providing GHG data for this IE licence application have also carried out EIARs for other projects and this data could be used to estimate cumulative climate impacts. Dr Doyle presents a table (Figure 1) compiled from public planning EIARs prepared by the consultant, AWN, detailing specific projects, their stated GHG emissions and associated climate impact assessments. The objector reiterates that, based on his calculations, the GHG emissions were underestimated in several projects, listed in this table. The objector states that the cumulative GHG emissions in 2030 from just the projects included in this table would amount to 3.5 - 4.2 million tonnes of CO₂ equivalent per year, significantly exceeding the electricity sectoral emissions ceiling of 3 million tonnes per year. In the opinion of Dr Doyle, *"this illustrates how through a piecemeal planning and licensing process, very large cumulative impacts can develop without being flagged as significant"*.

Development	Planning ref	GHG Emissions tonnes ktCO ₂ eq/year	EIAR Climate Impact Assessment	AWN Report Reference
Engine Node Clonee	R789/20, ABP 307546	591	not stated	Addendum to EIAR , 9.8.2.2
Amazon Drogheda	LB/191735 EPA P1181-01	183	long-term, negative, and imperceptible	EIAR ch.9, p. 24
Tunis Properties LLC, Drogheda	ABP-310729-21	473	indirect, long-term, negative and slight	EIAR, Ch.9, P.24
Crag Wicklow Ltd., Arklow	ABP-311778-21	361	indirect, long-term, negative and slight	EIAR Ch.8, P. 22
Data and Power Hub	SD20A/0058, SD20A/0324 ABP 309773-21 EPA P1165-01	259	8.6% of emissions ceiling in 2030	Sweco FI response, p.16
Art Data Centres Ltd. Ennis	ABP-314474-22	293 - 657	indirect, long-term, negative and slight	EIAR NTS, P.2, and AWN Report to ABP Table 5.
Crag Arklow Ltd.	WCC 21/1080 EPA P1202-01	448	direct, long-term, negative and slight	EIAR ch8., p. 20
Universal Developments (Overall Project)	FW22A/0308	196-457	Imperceptible to Slight (original EIAR) minor adverse (FI)	EIAR Ch.9 P. 42 AWN FI response, P. 43
EdgeConnex	ABP-317802-23 EPA P1204-01	331-420	moderate adverse prior to mitigation, minor adverse with mitigation	EIAR May 2023 Table11.10 + Table 11.11
Crag, Clondalkin	SD23A/0158	334	long-term, negative and slight	EIAR 2023 Table 9.11, ch. 9
Total for above 10 developments		3470 - 4183 kt		
Total		3.5 to 4.2 Mt 116% to 139% of indicative emissions ceiling for Electricity Sector in 2030		

Figure 1. Compilation of climate impact assessment conducted by AWN

Technical Committee's Evaluation:

This is not a direct objection to a Condition in the PD and so the TC's commentary will be limited. The TC acknowledges Dr Doyle's points that the percentages of the 2030 emissions ceiling from the direct emissions from the PGF and indirect emissions from the ICT facility, using his estimates or the lower estimates provided by the applicant, are significant. The TC acknowledges the compilation table Dr Doyle submitted (Figure 1) and notes that the developments listed are not all EPA licenced sites. The EPA has not been designated responsibility, nor a prescribed method, to assess sectoral emissions in its licensing functions against the 2030 sectoral emission ceilings. Sectoral emission ceilings

are based on sector and not project specific. The Agency may decide not to refuse development solely based on an installation's contribution to a sectoral emissions ceiling. The TC acknowledges that Dr Doyle is correct, that the current EPA projections show that the electricity sector is projected to exceed its emissions ceiling for 2030 ⁶. In the context of this project, the ICT facility is not an islanded data centre, i.e. it is not powered exclusively by its own fossil fuel burning power plant. The majority of the time, the ICT facility should be powered by the grid and the HVO generators, used in periods of high grid demand, have usage restrictions. The ICT facility has the potential to be powered by the grid at all times. As the capacity of the grid expands, the percentage of time powered on the ICT's own HVO generators should be reduced. The PGF is intended to export power to the grid, the applicant has clarified in their planning and licence application that they have an EirGrid contract to do so when requested, providing further energy security for Ireland.

Dr Doyle correctly notes that since 2021 the Agency's responsibilities under Section 15 of the Climate Action and Low Carbon Development (Amendment) Act have changed from 'have regard to' the climate plans, policies and objectives of Ireland to 'in so far as practicable, perform their functions in a manner consistent with the climate plans, policies and objectives.

In a recent judgement in Coolglass Wind Farm Limited v An Bord Pleanála & Ors [2025] IEHC 1, Judge Humphreys J. characterised this change to be a 'comply with' obligation, unless it is not possible or practicable; a higher standard of consideration than prior to 2021. It is the opinion of the TC that the Agency's assessment resulting in the issuing of the PD meaningfully engaged with the requirements under Section 15. Further to this judgement, the TC believes the Agency has exercised its discretion in a way that supports the outcome favouring climate goals. Point 132 of Humphreys J. judgement clarifies that there is no obligation on a relevant body, in this case the Agency, to refuse a development, e.g. a data centre, based on emissions. It is generally understood Ireland is a favourable location for data centres, due to the temperate climate and lower risk of natural disasters. This is discussed in the Section 15.3 Alternatives of the IR and Chapter 4 of the applicant's EIARs. Judge Humphreys J. states that his judgment should not be interpreted as being 'anti-data centre'.

The TC believes that the PD for this installation is not incompatible with the Climate Action and Low Carbon Development Act, 2021. Therefore, there is not sufficient justification to refuse or reject this licence based on this.

Reason for Decision:

The TC proposes no change and has reached its conclusion for the following reason:

- The Agency's function under the Climate Action and Low Carbon Development (Amendment) Act 2021 has been suitably performed.

Recommendation: No change

⁶ [Ireland's Greenhouse Gas Emissions Projections 2024-2055](#).

Flexible gas-fuelled generation

In points 22, 36 and 48, the objector explains that he does not believe that the PGF is flexible gas-fuelled generation, which was envisaged in CAP24, and therefore, he does not accept that emissions from the PGF are already accounted for in EPA GHG projections. *"Despite the identified climate impact, the IR seeks to justify granting an IE licence on the basis that the PGF will contribute towards the 2000 MW of flexible gas-fuelled generation provided for in CAP24, and that any resulting GHG emissions have already been factored into EPA projections. The claimed flexible generation is however purely illusory, and to accept the claim would require one to abandon all critical thinking, and to accept the ridiculous claim by the applicant that the PGF is not connected to the data centre, when it clearly is connected via the substation."*

In points 37 to 47, the objector is concerned that the ICT facility is connected to the PGF. In the opinion of the objector, the applicant has utilised project splitting to persuade South Dublin County Council (SDCC), the relevant planning authority, that the PGF operates independently of the ICT facility and the planning permissions were applied for in a staged manner. Essentially, the objector is concerned that the ICT facility would be powered entirely by the PGF via the substation.

Technical Committee's Evaluation:

This is not a direct objection to a Condition in the PD and so the TC's commentary will be limited. The objector's interpretation of the Agency's assessment is noted. Applicants are required to provide accurate and factual information to the Agency for assessment. The applicant has stated that they are not connected, and this has been accepted by SDCC, the relevant planning authority. The TC confirms that Condition 11.15.3 and Condition 11.15.4 of the PD are enforceable by the Agency. Should the Agency request annual operational hours under Condition 11.15.4 and find evidence that the installation is operating beyond peaking plant operations, this would constitute a breach of Condition 1 of the installation's planning permission. This information would be available to the planning enforcement body.

Information submitted for planning applications in addition to the granting of planning permissions is beyond the scope of this licence application, furthermore, any breach of planning in this regard falls beyond the Agency's remit. The TC has no further comment in relation to this.

Reason for Decision:

The TC proposes no change and has reached its conclusion for the following reason:

- Planning permission requirements are outside of the scope of this licence application and therefore the TC has no further comment in relation to this.

Recommendation: No change

Air Quality

In points 54, 55, 56 and 57 the objector is concerned that the air quality standards (AQS) could be exceeded in the vicinity of the installation and this is a human health issue. The objector states that the applicant's air emission modelling predicts the annual average NO₂ concentration at the worst case receptor will reach 64% of the annual mean limit value when considering the proposed development, and up to 116% when cumulative impacts are included, exceeding the AQS. It is the opinion of the objector that the existing background concentrations should have been provided from ambient air quality measurements at the installation. He states "*mitigation is clearly essential*" and questions whether the current ELVs for NO₂ "*could give rise to ambient concentrations approaching or exceeding ambient air quality standards*".

Technical Committee's Evaluation:

The TC examined the modelling carried out by the applicant and confirmed it was in accordance with published Agency guidance and was considered sufficiently detailed and conservative to assess the impact of the emissions to air. The cumulative model identifies exceedances of the AQS under all scenarios and this is dealt with in detail in the IR in Section 6.

The air modelling provided by the applicant assumed significantly longer hours of operation of the PGF and ICT facility generators than are anticipated in a year, e.g. the normal operations scenario in the model assumed continuous operation of the PGF on natural gas which, according to the IR, would not be expected for a peaking plant. The model also assumes the worst case meteorological conditions. The TC acknowledges the potential exceedance of an AQS is significant and as a result, the TC assessed the mitigation in the PD to prevent such an eventuality. These mitigation measures include installation of a selective catalytic reduction (SCR) abatement on the PGF engines and the preparation of a test programme within Condition 6.1, to ensure compliance with air ELVs presented in Schedule B.1 of the PD. In addition, Condition 3.23 mandates the implementation of an Ambient Air Quality Management Programme within six months. This Ambient Air Quality Management Programme requires the applicant to establish appropriate monitoring locations, approved monitoring equipment, defined trigger levels for relevant parameters at each monitoring location and implement a response programme outlining actions to be taken in the event of a trigger level exceedance. Additionally, Condition 3.23.8 specifies that the applicant must consult with EirGrid as part of the development and implementation of the Ambient Air Quality Monitoring Programme. It is the opinion of the TC that the air quality mitigation measures set out in the PD are sufficient.

Reason for Decision:

The TC proposes no change and has reached its conclusion for the following reason:

- In the interest of the protection of the environment and human health from air pollution.

Recommendation: No change

Environmental Impact Assessment Directive – Reasoned Conclusion Update

The TC has reviewed the assessment in the IR and, taking into account the objection received, and the contents of this TC report, the TC considers that the potential significant direct and indirect effects of the activity have been identified, described and assessed in an appropriate manner as respects the matters that come within the functions of the Agency, and as required by Section 83(2A) of the EPA Act.

It is considered that the monitoring, mitigation and preventative measures proposed in the IR, and as detailed in this TC report, will enable the activity to operate without causing environmental pollution, subject to compliance with the licence conditions included in the PD, with the inclusion of the amendments proposed in this report.

Appropriate Assessment – Technical Committee Review

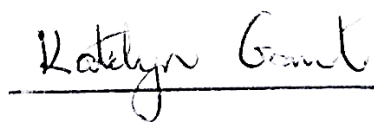
The TC has reviewed the Inspector's Appropriate Assessment (AA) Screening in the IR and, taking into account the objection received, and the content of this TC report, the TC is satisfied that the IR provides an adequate examination and evaluation of the effects of the activities on the European Sites concerned, Rye Water Valley/Carton SAC (001398), Glenasmole Valley SAC (001209), Wicklow Mountains SAC (002122), Red Bog Kildare SAC (000397), South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), Ballynafagh Bog SAC (000391), Wicklow Mountains SPA (004040), Poulaphouca Reservoir SPA (004063), South Dublin Bay and River Tolka Estuary SPA (004024), and North Bull Island SPA (004006) in the light of their conservation objectives.

Overall Recommendation

It is recommended that the Board of the Agency grant a licence to the applicant

- (i) for the reasons outlined in the proposed determination and
- (ii) subject to the conditions and reasons for same in the Proposed Determination, and
- (iii) subject to the amendments proposed and the reasons set out in this report.

Signed



Katelyn Grant

for and on behalf of the Technical Committee