



**Oifig an Ombudsman
Office of the Ombudsman**

Our Reference :
L18-09-0561

21 April 2009

Mr Johnny McElligott
Kilcolgan Residents Association
Island View
5 Convent Street
Listowel
Co Kerry

Dear Mr. McElligott

I refer to your email dated 9 March, 2009, in relation to Kerry County Council and your conversation regarding the matter with my colleague, Mr. David Ryan. I apologise for the delay in replying to your email.

I understand that you consider your email of 9 March raises new issues regarding your complaint against Kerry County Council. Having discussed the matter, Mr. Ryan explained that any new issues you wished this Office to examine should be first raised in writing with the Council and it should be given an opportunity to respond.

I wish to confirm that, if you consider there are further issues the Council should now address, you should write to the Council regarding these matters, and, if you do not receive a response within six weeks, or if you are not satisfied with the response received, you can then contact this Office again. We will then look at the matter further at that stage with a view to examining any matters that fall within the Ombudsman's remit.

However, I should add that it would appear to this Office that the issues raised in your email may have been addressed in our examination of your earlier complaint at reference L18/07/2518. You will recall that in our letter dated 3 April, 2008, we advised you that the Council had informed this Office, in relation to the Shannon LGN project, that '*... at the time of the variation no application for such a development had been lodged. In proposing the variation Kerry County Council had to be cognisant of the possibility that the project might not proceed to application stage and the proposed variation for industrial zoning could not therefore be assessed on a project specific basis.*' Points 2, 3 and 4 of that letter also advised of the Council's comments on your claim that the screening process was inadequate due to the fact that it did not refer to the option of Shannon LNG to purchase the site.

Mr. Ryan email to you dated 1 September, 2008, also indicated that the Council had advised this Office *'In relation to the SEA and the fact that the Shannon LNG project was not assessed as part of the screening process, it is worth noting that the area of lands zoned for industrial development was far in excess of the land required for the Shannon LNG proposal. It was a variation for industrial rezoning and not project specific for Shannon LNG. To have considered Shannon LNG as part of the screening process would have involved a different type of specific zoning e.g. zoned specifically for a gas storage and importation formed. There was no guarantee that any application would be lodged for this purpose and Kerry County Council was not about to undermine the industrial potential of the land for alternative uses. For the reasons stated, Kerry County Council deliberately did not want to zone lands specifically for a gas importation terminal.'*

Having carefully examined the complaint from you at our reference number L18/07/2518, and the information submitted by Kerry County Council regarding the matter, this Office concluded that it seemed the Council had acted in accordance with the correct administrative procedures and there was insufficient evidence to find that there was maladministration by Kerry County Council. Our letter to you dated 5 January, 2009, indicated our view on the matter.

However, if you now consider that there are new issues the Council should address regarding the matter you should put these specific points to the Council and await its reply.

Yours sincerely



Jean Sullivan

On behalf of the Ombudsman



**Kilcolgan Residents
Association
& Safety Before LNG**
Protecting the Shannon Estuary

Kilcolgan Residents Association
c/o Island View
Convent Street
Listowel
County Kerry

Telephone: +353-87-2804474
Email: safetybeforelng@hotmail.com
Web: www.safetybeforelng.com

9 March 2009

David Ryan, Investigator,
The Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2
By Email to: david_ryan@ombudsman.gov.ie
c.c. ombudsman@ombudsman.gov.ie

Re: [Complaint concerning refusal to carry out an SEA on variation No 7 of 2007](#) to Kerry County Development Plan (reference L18/07/2518)

Dear Mr. Ryan,

Thank you for your letter dated 5 January 2009.

Please note that, as I already pointed out to you in my letter of 16 April 2008, the fact that the area was being rezoned for industrial use in a general sense - as opposed to being rezoned for an LNG terminal in particular - does not effect the real purpose of an SEA screening decision. The criteria for determining whether the variation to the development plan requires an SEA is determined by whether or not "*the plan is LIKELY to have significant effects on the environment*" and by "*the characteristics of the effects and of the area LIKELY to be effected*"¹.

Secondly, Kerry County Council claims that since the LNG project might not proceed to planning application stage its decision to ignore the possibility of a Seveso II LNG terminal in the SEA screening is justified. This justification is contradicted by the fact that **MONEY HAD ALREADY CHANGED HANDS** when the decision to rezone without an SEA took place on March 12th 2007.

Shannon Foynes Port Company made publicly available, in June 2008, the information of the option-to-purchase agreement between Shannon Development and Shannon LNG being conditional on obtaining planning permission within 2 years². From Shannon LNG accounts lodged with the Companies Registration Office, attached below, for year ended 31 December 2006, it is noted that **Shannon LNG had already paid at least €493,000 to Shannon Development by December 2006**

¹ See Schedule 2A of the Planning and Development (Strategic Environmental Assessment) Regulations 2004

² http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

(three months before the vote) and this figure rose to **€1,233,000** by year end December 31st 2007 (although it is not clear if this extra €740,000 in 2007 was paid before or after the vote of March 12th 2007). The sums of money transferred speak for themselves.

Councillor John Brassil, a director of Shannon Development at the time of the signing of the option to purchase with Shannon LNG had asked the Executive of Kerry County Council to give this LNG project “every support” in the Council Meeting of 20 June 2006. The senior management team announced at that meeting to oversee the LNG project were confirmed by you in your letter of January 5th 2009 as consisting of Martin Riordan, Tom Curran, Michael McMahon and Tom Sheehy.

I ask that you now consider my complaint in the light of the fact that nearly half a million euros had changed hands before the decision to rezone took place. It at least proves that the LNG proposal was likely to go ahead, does it not?

I await your feedback.

Yours sincerely,

Johnny McElligott



Shannon LNG Limited

3055459



DIRECTORS' REPORT AND FINANCIAL STATEMENTS
for the year ended 31 December 2006

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FEE IN	PAID FULL	RECEIPT No.
28 SEP 2007		
COMPANIES REGISTRATION OFFICE		

Shannon LNG Limited

DIRECTORS' REPORT AND FINANCIAL STATEMENTS for the year ended 31 December 2006

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Shannon LNG Limited

COMPANY INFORMATION

DIRECTORS

Patrick Power
Gordon Shearer

SECRETARY

Matsack Trust Limited

REGISTERED OFFICE

30 Herbert Street
Dublin 2

SOLICITORS

Matheson Ormsby Prentice
30 Herbert Street
Dublin 2

BANKERS

Allied Irish Bank
Main Street
Blackrock
Dublin

AUDITORS

Ernst and Young
Chartered Accountants
Barrington House
Barrington Street
Limerick

Shannon LNG Limited

DIRECTORS' REPORT

for the year ended 31 December 2006 (All figures are expressed in thousands of Euro)

The directors present their report and financial statements for the year ended 31 December 2006.

PRINCIPAL ACTIVITIES, BUSINESS REVIEW AND FUTURE DEVELOPMENTS

Shannon LNG Limited (Company) is a development stage company, engaged in the development of liquefied natural gas (LNG) marine import terminals. The company is currently working to secure all necessary permits to develop a terminal located in County Kerry. Construction of the terminal is expected to begin once all the permits are obtained.

The company was formerly known as the Irish National Energy Company Limited (INEC). On 19th April 2006 Hess LNG Limited (HESS LNG), a joint venture between Hess Oil and Gas Holdings Inc. (HOGHI), a subsidiary of Hess Corporation (HESS) and Midstream Beta Limited, a subsidiary of Poten & Partners Group, LLC (POTEN) acquired INEC. The name of the company was changed from INEC to Shannon LNG Limited on that date.

On 19th April 2006, the company entered into an option agreement with Shannon Free Airport Development Company Limited to purchase up to 281 acres for the purposes of developing an LNG marine import terminal. As of 31 December 2006 the company has paid €493 under the terms of the option agreement.

€493,000

RESULTS FOR THE YEAR AND STATE OF AFFAIRS AT 31 DECEMBER 2006

The profit & loss account and balance sheet are set out on pages 7 & 8. All project startup costs incurred to date have been charged to expense, with the exception of option payments for the project site in Shannon and deposits for office space. The company recorded a loss of €2,550 for the year.

IMPORTANT EVENTS SINCE THE YEAR END

On 8th March 2007, HOGHI increased its equity ownership in the company by acquiring 85% of Midstream Beta Limited's equity. Following the transaction, the company is owned 92.5% by HOGHI and 7.5% by Midstream Beta Limited.

DIRECTORS

On 18th April 2006 Ms. Catherine Power resigned as a director and was replaced by Mr. Gordon Shearer.

BOOKS AND ACCOUNTING RECORDS

The directors are responsible for ensuring that proper books and accounting records, as outlined in Section 202 of the Companies Act, 1990, are kept by the company.

To achieve this, the directors have appointed appropriate personnel to ensure that those requirements are complied with.

These books and accounting records are maintained at 30 Herbert Street, Dublin 2.

DIVIDENDS

The directors of the company do not propose the payment of a dividend for the year.

Shannon LNG Limited

DIRECTORS' REPORT

for the year ended 31 December 2006

DIRECTORS' AND SECRETARY'S INTERESTS

The interests of directors in the share capital of the company at the beginning and end of the year were as follows:

Director	At 31 December 2005 Number of Ordinary Shares	At 31 December 2006 Number of Ordinary Shares
Patrick Power	10,000	-
	At 31 December 2005 Number of Def. Ordinary Shares	At 31 December 2006 Number of Def. Ordinary Shares
Patrick Power	5,000	5,000

STATEMENT OF DIRECTORS' RESPONSIBILITIES IN RESPECT OF THE FINANCIAL STATEMENTS

The directors are responsible for preparing the financial statements in accordance with applicable Irish law and Generally Accepted Accounting Practice in Ireland including the accounting standards issued by the Accounting Standards Board and promulgated by the Institute of Chartered Accountants in Ireland.

Company law requires the directors to prepare financial statements for each financial year, which give a true and fair view of the state of affairs of the company and of the profit or loss of the company for that period. In preparing those financial statements, the directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the company will continue in business.

The directors are responsible for keeping proper books of account which disclose with reasonable accuracy at any time the financial position of the company and enable them to ensure that the financial statements are prepared in accordance with accounting standards generally accepted in Ireland and comply with the Companies Acts, 1963 to 2006. They are also responsible for safeguarding the assets of the company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

AUDITORS

The auditors, Ernst & Young, Chartered Accountants, will continue in office in accordance with Section 160(2) of the Companies Act, 1963.

On behalf of the board on

27 June 2007

Directors

INDEPENDENT AUDITORS' REPORT TO THE MEMBERS OF SHANNON LNG LIMITED

We have audited the company's financial statements of Shannon LNG Limited for the year ended 31 December 2006 which comprises the Profit and Loss Account, the Balance Sheet and the related notes 1 to 13. These financial statements have been prepared under the accounting policies set out therein.

This report is made solely to the company's members, as a body, in accordance with section 193 of the Companies Act, 1990. Our audit work has been undertaken so that we might state to the company's members those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company and the company's members as a body, for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of directors and auditors

The directors are responsible for the preparation of the financial statements in accordance with applicable Irish law and Accounting Standards issued by the Accounting Standards Board and promulgated by the Institute of Chartered Accountants in Ireland (Generally Accepted Accounting Practice in Ireland) as set out in the Statement of Directors' Responsibilities.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

We report to you our opinion as to whether the financial statements give a true and fair view and are properly prepared in accordance with the Companies Acts, 1963 to 2006. We also report to you our opinion as to: whether proper books of account have been kept by the company; whether, at the balance sheet date, there exists a financial situation which may require the convening of an extraordinary general meeting of the company; and whether the information given in the Directors' Report is consistent with the financial statements. In addition, we state whether we have obtained all the information and explanations necessary for the purposes of our audit and whether the financial statements are in agreement with the books of account.

We also report to you if, in our opinion, any information specified by law regarding directors' remuneration and other transactions is not disclosed and, where practicable, include such information in our report.

We read the Directors' Report and consider the implications for our report if we become aware of any apparent misstatements within it.

Basis of audit opinion

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgments made by the directors in the preparation of the financial statements, and of whether the accounting policies are appropriate to the company's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

INDEPENDENT AUDITORS' REPORT TO THE MEMBERS OF SHANNON LNG LIMITED

Opinion

In our opinion the financial statements give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland, of the state of affairs of the company as at 31 December 2006 and of its loss for the year then ended and have been properly prepared in accordance with the Companies Acts, 1963 to 2006.

We have obtained all the information and explanations we consider necessary for the purposes of our audit. In our opinion proper books of account have been kept by the company. The financial statements are in agreement with the books of account.

In our opinion the information given in the Directors' Report is consistent with the financial statements.

In our opinion, the balance sheet shows an excess of liabilities over assets and, in our opinion, on that basis there did exist at 31 December 2006 a financial situation which under Section 40(1) of the Companies (Amendment) Act, 1983 may require the convening of an extraordinary general meeting of the company.

Emphasis of Matter – Going Concern

In forming our opinion, which is not qualified, we have considered the adequacy of the disclosures made in Note 1 to the financial statements concerning the uncertainty over the ability of the company to continue as a going concern. In view of the significance of this uncertainty we consider that it should be drawn to your attention. The financial statements do not include the adjustments that would result if the company was unable to continue as a going concern.

Ernst & Young
Ernst & Young
Registered Auditors
Limerick

Date: 18th July 2007


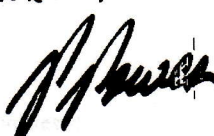
Shannon LNG Limited

PROFIT AND LOSS ACCOUNT for the year ended 31 December 2006

	Note	2006 €'000	2005 €'000
Sales		-	-
Cost of sales		-	-
GROSS PROFIT		-	-
Other (losses)/gains		-	-
Administrative expenses		-	-
Other income		-	-
Other expenses		(2,550)	(352)
(Loss) before income tax	2	(2,550)	(352)
Income tax expense	3	-	-
LOSS RETAINED FOR THE PERIOD		(2,550)	(352)

The company has no other recognised gains or losses in the current financial year other than those dealt with in the profit & loss account.

On behalf of the board on 27 June 2007


Directors 

Shannon LNG Limited

BALANCE SHEET for the year ended 31 December 2006

	Note	2006 €'000	2005 €'000
FIXED ASSETS			
Intangible fixed assets	4	493	-
Deposits		32	-
		<u>525</u>	<u>-</u>
CURRENT ASSETS			
Debtors	5	155	57
Cash and cash equivalents		39	1
		<u>194</u>	<u>58</u>
CREDITORS: amounts falling due within one year	6	(464)	(409)
NET CURRENT LIABILITIES		<u>(270)</u>	<u>(351)</u>
TOTAL ASSETS LESS CURRENT LIABILITIES		<u>255</u>	<u>(351)</u>
CREDITORS:			
amounts falling due after more than one year	7	(3,156)	-
NET (LIABILITIES)		<u>(2,901)</u>	<u>(351)</u>
CAPITAL AND RESERVES			
Share capital	9	1	1
Retained earnings		(2,902)	(352)
Shareholders' deficit (all equity interests)	8	<u>(2,901)</u>	<u>(351)</u>

On behalf of the board on 27 June 2007

R. Sheave
Directors

J. Power

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2006

1. ACCOUNTING POLICIES

(a) *Going concern*

The accompanying financial statements have been prepared on a going concern basis. As shown in the Profit and Loss account and Balance Sheet, the company has a limited amount of cash, has incurred losses and has accumulated a deficit during the development stage. These factors indicate the company may be unable to continue as a going concern. The financial statements do not include any adjustments that might be necessary should the company be unable to continue as a going concern.

The directors recognize that continuing as a going concern is dependent on among other factors, obtaining funding from Hess LNG. The company has an interest free loan agreement with Hess LNG. Through the end of 2006, the company has borrowed €3,156 under this agreement, with a further €1,370 borrowed since the end of 2006. The loan agreement provides project funding up to €10,000. The directors believe that the funding through the loan agreement will be sufficient to allow the company to continue as a going concern.

(b) *Basis of preparation*

The financial statements are prepared in accordance with generally accepted accounting principles under the historical cost convention and comply with financial reporting standards of the Accounting Standards Board, as promulgated by the Institute of Chartered Accountants in Ireland.

(c) *Start up costs*

All project startup costs incurred to date have been charged to expenses, with the exception of option payments for the project site in Shannon and deposits for office space.

(d) *Cash and cash equivalents*

Cash equivalents consist of highly liquid investments, which are readily convertible into cash and have maturities of three months or less when acquired.

(e) *Taxation*

The company has not generated any income to date, and as a result has not incurred any corporation taxes.

(f) *Cash Flow*

Financial Reporting Standard Number 1, "Cash Flow Statements", exempts small companies as defined in the companies' legislation from preparing cash flow statements. The company has availed of this exemption.

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2006

2. PROFIT ON ORDINARY ACTIVITIES BEFORE TAXATION

	2006 €'000	2005 €'000
The profit before taxation is stated after charging:		
Directors' emoluments	276	-
Auditors' remuneration	42	-

3. TAX ON (LOSS) ON ORDINARY ACTIVITIES

(a)	Analysis of profit and loss account charge:	2006 €'000	2005 €'000
	Current tax:		
	Republic of Ireland corporation tax on profits of the period at 12.5% (see reconciliation below)	-	-
	Tax on (loss) on ordinary activities	-	-
(b)	Reconciliation of the expected tax charge at the standard tax rate to the actual tax charge at the effective rate		
	The tax assessed for the year is lower than the standard rate of corporation tax in the Republic of Ireland (12.5%). The differences are explained below:		
		2006 €'000	2005 €'000
	(Loss) on ordinary activities before tax	(2,550)	(352)
	(Loss) on ordinary activities multiplied by the standard rate of corporation tax in the Republic of Ireland of 12.5% (2005: 12.5%)	(319)	(44)
	Effects of:		
	Increase in losses forward	319	44
	Tax on (loss) on ordinary activities	-	-

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2006

4. INTANGIBLE FIXED ASSETS

	<i>Property, plant & equipment</i> €'000	<i>Total</i> €'000
Opening balance	-	-
Additions	493	493
Amortisation	-	-
Net book value		

The intangible asset arises on the option to purchase land from Shannon Free Airport Development Company Limited.

5. DEBTORS

	<i>2006</i> €'000	<i>2005</i> €'000
Amounts falling due within one year:		
Trade and other receivables	155	57

6. CREDITORS: amounts falling due within one year

	<i>2006</i> €'000	<i>2005</i> €'000
Trade and other payables	464	409

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2006

7. CREDITORS: amounts falling due after more than one year

	2006 €'000	2005 €'000
Amounts due to parent undertaking	3,156	-

The company has entered into an interest free loan agreement with Hess LNG to provide funding for project development. The facility provides funding up to €10,000. As at 31 December 2006 the company had a loan balance with Hess LNG of €3,156.

8. RECONCILIATION MOVEMENTS IN SHAREHOLDERS' FUNDS

	2006 €'000	2005 €'000
Profit retained for the year	(2,550)	(352)
Opening shareholders' funds	(351)	1
Closing shareholders' funds	(2,901)	(351)

9. CALLED UP SHARE CAPITAL

	2006 €'000	2005 €'000
Authorised:		
1,000,000 ordinary shares of €0.01 each	10,000	10,000
20,000 deferred ordinary shares of €0.01 each	200	200
Allotted, called up and fully paid:		
40,000 ordinary shares of €0.01 each	400	400
20,000 deferred ordinary shares of €0.01 each	200	200
	600	600
Rounded amount	€'000	€'000
Allotted, called up and fully paid	1	1

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2006

9. CALLED UP SHARE CAPITAL (contd.)

Each of the Ordinary Shares and the Deferred Ordinary Shares shall rank *pari passu* in all respects save as specifically set out below:-

As Regards Dividend

- a) Each of the Ordinary Shares shall rank *pari passu* in all respects as to dividends.
- b) The Deferred Ordinary Shares shall confer upon the holders thereof no right to receive any dividend thereon.

As Regards a Return of Capital

- a) In the event of any liquidation, dissolution or winding-up of the Company, either voluntarily or involuntarily, the assets and retained profits available for distribution to the holders of Ordinary Shares in the capital of the Company shall be distributed with equal priority among the holders of Ordinary Shares in the same proportions as the holders hold such Ordinary Shares.
- b) The holders of Deferred Ordinary Shares shall have no rights to share in the assets or retained profits of the Company in the event of any liquidation, dissolution or winding-up of the Company.

As Regards Voting at General Meetings

- a) The holders of Ordinary Shares shall each be entitled to receive notice of, and to attend and speak and vote at, general meetings of the Company.
- b) The Deferred Ordinary Shares shall not confer upon the holders thereof the right to receive notice of or to attend or vote at general meetings of the Company.

As Regards Conversion of the Deferred Ordinary Shares

The following rights shall attach to Deferred Ordinary Shares as regards conversion:

- (a) All of the Deferred Ordinary Shares held by a Deferred Ordinary Shareholder shall automatically convert into Ordinary Shares in accordance with the Conversion Rate specified in Article 4.4(b) in the Memorandum and Articles of Association, on the occurrence of the Final Investment Decision.
- (b) Each holder of Deferred Ordinary Shares shall be entitled to receive one Ordinary share and the corresponding share certificate for each Deferred Ordinary share held by him on the date of the Final Investment Decision.

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2006

10. CONTROLLING PARTIES

Shannon LNG Limited is a wholly owned subsidiary undertaking of Hess LNG Limited, an undertaking incorporated in the Cayman Islands. The parent undertaking of the smallest group of undertakings for which group financial statements are drawn up, and of which the company is a member, is Hess Corporation. Copies of its group financial statements are available from 1185 Avenue of the Americas, New York, NY 10036, United States.

Hess LNG Limited is a joint venture between Hess Oil and Gas Holdings Inc. (HOGHI), a subsidiary of Hess Corporation (HESS) and Midstream Beta Limited, a subsidiary of Poten & Partners Group LLC (POTEN). The ultimate controlling parties are both incorporated in the United States. Copies of the group financial statements for Hess Corporation are available from 1185 Avenue of the Americas, New York, NY 10036, United States.

11. RELATED PARTIES

A summary of all material transactions between the company and its members and affiliates follows:

Services Agreement

2006
€'000

Hess LNG

€330

The company has entered into a services agreement with Hess LNG to provide certain services including coordination of project development, as well as legal and accounting support.

12. CONTINGENCIES

The company is subject to contingent liabilities with respect to existing or potential claims, lawsuits and other proceedings. The company considers these routine and incidental to its business and not material to its financial position or results of operations. The company accrues liabilities when the future costs are probable and reasonably estimable.

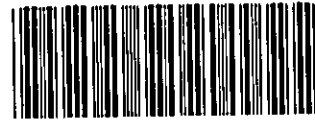
13. APPROVAL OF FINANCIAL STATEMENTS

The directors approved the financial statements on 27 June 2007

Companies Registration Office

Annual Return

Sections 125, 127, 128 Companies Act, 1963
Section 7 Companies (Amendment) Act 1986
Section 26 Electoral Act 1997
Sections 43, 44 Companies (Amendment)(No 2) Act 1999
Section 249A Companies Act 1990 (inserted by section
107 Company Law Enforcement Act 2001)
Companies Act 1990 (Form and Content of Documents
Delivered to Registrar) Regulations 2002



3372597

date stamp

Companies Acts, 1963 to 2006

Tick box if bond
is attached ☐
note sixteen

Company Number

3 6 8 2 3 6

B1

Please complete using black typescript or BOLD CAPITALS, referring to explanatory notes

Company Name

in full

SHANNON LNG LIMITED

Return made up to

note one

Day Month Year
0 6 0 9 2 0 0 8

If the return is made up to a date earlier than the existing ARD, do you wish
to retain the anniversary of the existing ARD for next year? note two

Yes

No

☐☐

Financial Year

note three

From Day Month Year To Day Month Year
0 1 0 1 2 0 0 7 3 1 1 2 2 0 0 7

The company is claiming the exemption from audit in respect of the financial year covered by the accounts
attached to this return.

☐

Registered Office

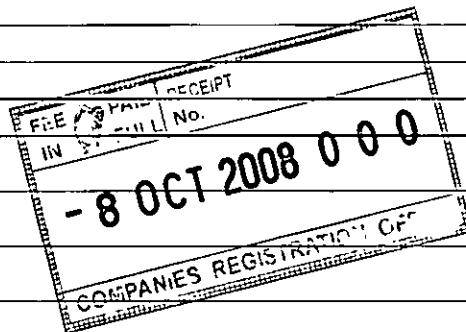
note four

70 Sir John Rogerson's Quay, Dublin 2, Ireland

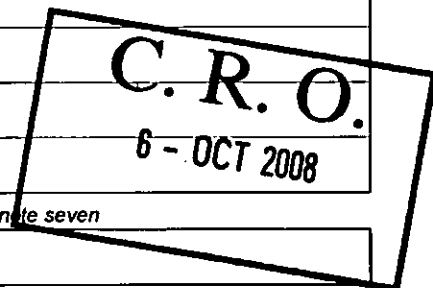
Other Addresses

note five

Address



Register(s)/documents held at this address



Secretary

note six

Surname

MATSACK TRUST LIMITED

Former Surname note seven

None

note six

Forename

Former Forename note seven

None

Residential Address

note six

70 Sir John Rogerson's Quay, Dublin 2, Ireland

Donations for Political Purposes

note eight

Name of person or political party to whom donation was made

None

Value of donation € / _

Presenter Details

Name

Person to whom queries can be addressed

Matheson Ormsby Prentice

Address

70 Sir John Rogerson's Quay, Dublin 2, Ireland

DX Number

DX Exchange

Telephone Number

01 232 2000

Fax Number 01 232 3333

Email

mop@mop.ie

Reference Number 54665

Authorised Share Capital

note nine

Total	€ / _	10,200.00	made up as follows:	Nominal Value
Class			Number of Shares	Per Share € / _
DEFERRED ORDINARY			20,000	0.01
ORDINARY			1,000,000	0.01

Issued Share Capital
(insert nominal values)

Total	€ / _	600.00	made up as follows:
Paid up on shares issued for cash	€ / _	600.00	
Considered paid on other shares	€ / _	0.00	
Total calls unpaid	€ / _	0.00	(E)
Total not yet called	€ / _	0.00	(F)

The sum of these figures must equal the total issued share capital.

Shares Issued**Consideration - all cash**

		Total standing to credit of Capital Conversion Reserve Fund note ten	€ / _	0.00
Class	Number of Shares	Total Nominal Value € / _	Total Premium Paid € / _	Total Amount Paid € / _
DEFERRED ORDINARY	20,000	200.00	0.00	200.00
ORDINARY	40,000	400.00	0.00	400.00
Totals (A)	60,000		(C)	600.00

Consideration - not all cash

Class	Number of Shares	Total Nominal Value € / _	Total Premium Considered Paid € / _	Total Amount Considered Paid € / _
Totals (B)	0		(D)	0.00

Totals

Total number of shares issued (A) + (B) 60,000

Total paid and unpaid and considered paid (C) + (D) + (E) + (F) € / _ 600.00

This total must agree with the total number of shares held by existing members as stated in the List of Past and Present Members section of the return.

Other Share / Debenture Details

note eleven

BLUEPRINT

2000

List of Past and Present Members

Persons holding shares on the date to which the annual return has been made up for 20 08 (insert year) and of persons who have held shares therein at any time since the date of the last return, or in the case of the first return, the date of incorporation of the company. *note twelve*

☐

Tick box if the list of past and present members is submitted on CD.

notes six and thirteen

Name and Address	Share Class	Numbers Held <i>note fourteen</i>	Number Transferred and Date <i>note fifteen</i>	Particulars of Transferee <i>note fifteen</i>
Name Address Folio No.				
Hess LNG Limited c/o Caledonian Bank & Trust Limited, Caledonian House, Dr. Roy's Drive , PO Box 1043 GT, George Town, Grand Cayman BWI, Cayman Islands	€0.01 ORDINARY	40,000		
Name Address Folio No.				
Hess LNG Limited c/o Caledonian Bank & Trust Limited, Caledonian House, Dr. Roy's Drive , PO Box 1043 GT, George Town, Grand Cayman BWI, Cayman Islands	€0.01 DEFERRED ORDINARY	20,000		
Name Address Folio No.				
KATE POWER 8 Trafalgar Terrace , Monkstown , Co. Dublin	€0.01 DEFERRED ORDINARY	0	5,000 24/06/2008	Hess LNG Limited
Name Address Folio No.				
JOHN POWER 14 Cliff Road, Tramore, Co. Waterford, Ireland	€0.01 DEFERRED ORDINARY	0	5,000 24/06/2008	Hess LNG Limited
Name Address Folio No.				
PATRICK POWER 8 TRAFALGAR TERRACE, MONKSTOWN, CO. DUBLIN	€0.01 DEFERRED ORDINARY	0	5,000 24/06/2008	Hess LNG Limited
Name Address Folio No.				
SARAH POWER 8 Trafalgar Terrace , Monkstown , Co. Dublin	€0.01 DEFERRED ORDINARY	0	5,000 24/06/2008	Hess LNG Limited
Name Address Folio No.				
Name Address Folio No.				
Name Address Folio No.				
Name Address Folio No.				

Total number held

The total number of shares held must agree with the total number of issued shares given in the **Shares Issued** section (total of (A) plus (B)).

Directors

including shadow/alternate directors if any

note six

Surname

POWER

Former Surname note seven

None

Forename

PATRICK

Former Forename note seven

None

Day Month Year

Date of Birth

23 02 1948

Irish Resident note sixteen

☒

Alternate Director note seventeen

☐Residential Address
note six

8 TRAFALGAR TERRACE, MONKSTOWN, CO. DUBLIN

Business Occupation

C.E.O.

Nationality

IRISH

Company note eighteen

Place of Incorporation note nineteen

Company Number

Other Directorships

See continuation sheet

note six

Surname

SHEARER

Former Surname note seven

None

Forename

GORDON

Former Forename note seven

None

Day Month Year

Date of Birth

11 08 1954

Irish Resident note sixteen

☐

Alternate Director note seventeen

☐Residential Address
note six

101 West 55th Street, Apt. 10H, New York 10019, United States

Business Occupation

BUSINESS EXECUTIVE

Nationality

AMERICAN

Company note eighteen

Place of Incorporation note nineteen

Company Number

Other Directorships

None

note six

Surname

Former Surname note seven

Forename

Former Forename note seven

Day Month Year

Date of Birth

Irish Resident note sixteen

☐

Alternate Director note seventeen

☐Residential Address
note six

Business Occupation

Nationality

Company note eighteen

Place of Incorporation note nineteen

Company Number

Other Directorships

Certification

note twenty

We hereby certify that (i) this form has been completed in accordance with the Notes on Completion of Form B1, (ii) contains the particulars in respect of the company as at the date to which the return is made up and that (iii)

The company is not a private company.

The company is a private company and has not since the date of its annual return (or the date of incorporation if this is the first return) issued any invitation to the public to subscribe for shares or debentures in the company.

The company is a private company with more than 50 members, the excess of the number of members over 50 consisting wholly of persons who, under section 33(1)(b) Companies Act 1982, are not included in reckoning the number of 50.

Signed

Director

Secretary

Name
in bold capitals or typescript

PATRICK POWER, DIRECTOR

MATSACK TRUST LIMITED

NOTES ON COMPLETION OF FORM B1

These notes should be read in conjunction with the relevant legislation.

- General** This form must be completed correctly, in full and in accordance with the following notes. Every section of the form must be completed. Where "not applicable", "nil" or "none" is appropriate, please state. Where € / _ appear, please insert/ delete as appropriate. Where / _ applies, give the relevant currency, if not euro. Where the space provided on Form B1 is considered inadequate, the information should be presented on a continuation sheet in the same format as the relevant section in the form. The use of a continuation sheet must be so indicated in the relevant section.
- Note one** A company is required to file with this return any returns that may be outstanding in respect of previous years. There must be no gap between the effective date of the previous year's return (if applicable) and the period covered by this return. Pursuant to s127 Companies Act 1963, a company's return must be made up to a date not later than its Annual Return Date (ARD). However, a new company filing its first return post-incorporation must make that return up to its ARD. The return must be filed with the Registrar within 28 days of the company's ARD, or, where the return has been made up to a date earlier than the company's ARD, within 28 days of that earlier date. S127 sets out the manner in which a company's ARD is determined and in which it may be altered. There are severe penalties for late filing of the return. *Returns made up to a date prior to 1 March 2002:* If this form is being used to file such a return, the return ought to be made up to the date which was 14 days after the company's AGM for the year in question and was required to have been delivered to the CRO within 60 days of the AGM. All other notes are also applicable to such returns. The late filing penalty will be charged in respect of any such return.
- Note two** This section must be completed if this return is being made up to a date earlier than the company's existing ARD. Where the company elects to retain the anniversary of its existing ARD for next year, the "Yes" box must be ticked. Where it elects that its ARD in the following year will be the anniversary of the date to which this return is made up, the "No" box must be ticked. If neither box is ticked, the form will be returned for correction. This section does not apply to a new company filing its first return post-incorporation.
- Note three** (i) If the return is filed with Form B73, or it is the first return of a company incorporated since 1 March 2002, no accounts need be attached and financial year details are not required. Otherwise, give the date of the commencement and completion of the financial year covered by the accounts presented or to be presented to the AGM of the company for that year. Pursuant to s7(1A) Companies (Amendment) Act 1986 (inserted by s64 Company Law Enforcement Act 2001), the accounts must be made up to a date **not earlier by more than nine months** than the date to which the return is made up. In the case of the first return since the company's incorporation, the period since incorporation is required to be covered by the accounts. In any other case, the accounts are required to cover the period since the last set of accounts filed with the CRO.
- (ii) Certain unlimited companies are required to prepare accounts and annex them to Form B1: Unlimited companies and partnerships where all the members, who do not have a limit on their liabilities, are companies limited by shares or guarantee, or their equivalent if not covered by the laws of the State, or a combination of these undertakings; unlimited companies and partnerships where all the members, who do not have a limit on their liabilities, are themselves unlimited companies or partnerships of the type aforementioned that are governed by the laws of the State or equivalent bodies governed by the laws of an EU Member State or combinations of these undertakings. Unlimited companies which do not come under either of these categories do not have to file accounts nor give details of their financial year.
- (iii) To avail of an audit exemption, certain conditions must be satisfied. For further information see CRO Information Leaflet No. 10.
- (iv) Private unlimited companies, private not-for-profit companies and certain companies with charitable objects, while exempt from annexing accounts to Form B1, are required by section 128(6B) Companies Act 1963 to annex a special auditor's report to Form B1.
- Note four** Give the address at the date of this return. Any change of registered office must be notified to the CRO. Form B2 ought to be used for this purpose.
- Note five** If not kept at the registered office, state the address(es) where the register of members, register of debenture holders, and register of directors' and secretary's interests in shares and debentures of the company are kept, and where copies of directors' service contracts/memoranda of same (if applicable) are retained. Where the records are retained at an accessible website, the CRO should be notified of the relevant website address.
- Note six** Insert the full name (initials will not suffice) and usual residential address. Where the secretary is a body corporate, its company name and registered office must be stated. Where the secretary is a firm, and all the partners are joint secretaries of the company, the name and principal office of the firm will be accepted.
- Note seven** Any former forename and surname must also be stated. This does not include (a) in the case of a person usually known by a title different from his surname, the name by which he was known previous to the adoption of or succession to the title; or (b) in the case of any person, a former forename or surname where that name or surname was changed or disused before the person bearing the name attained age 18 years or has been changed or disused for a period of not less than 20 years; or (c) in the case of a married woman, the name or surname by which she was known prior to the marriage.
- Note eight** S26 Electoral Act 1997 requires details of contributions for political purposes, in excess of €5,079 in the aggregate, to any political party, member of the Dáil or Seanad, MEP or candidate in any Dáil, Seanad or European election, made by the company in the year to which the annual return relates (i.e. the period since the effective date of the previous year's annual return, up to and including the effective date of the current return), to be declared in the annual return and directors' report of the company in respect of that year. The particulars must be sufficient to identify the value of each such donation and the person to whom the donation was made. A wide definition of donation is set out in s22/s46 of the 1997 Act and includes services supplied without charge, a donation of property or goods, or the free use of same.
- Note nine** Where a company has converted any of its shares into stock, then, where appropriate, the references to shares shall be taken as references to stock and references to number of shares shall be taken as references to amount of stock. The second page does not apply to a guarantee company without a share capital.
- Note ten** Insert, where applicable. (If share capital has been renominialised pursuant to s26 Economic and Monetary Union Act 1998 and there has been a decrease in the whole or part of the authorised and issued share capital or in a class of shares as a result of the renominialisation (26(4)(a).)
- Note eleven** Details of shares forfeited, shares/debentures issued at a discount, or on which a commission was paid including share class, number of shares and amounts in each case.
- Note twelve** A full list is required with all returns. However, this requirement does not apply to a guarantee company without a share capital. Where joint shareholders exist, name either all joint shareholders or the first shareholder and "Another".
- Note thirteen** Where there are more than seven shareholders, the list should be given on a continuation sheet in alphabetical order.
- Note fourteen** Give the total number of shares held by each member.
- Note fifteen** Applicable to private companies only. Furnish particulars of shares transferred, the date of registration of each transfer and the number of shares transferred on each date since the date of the last return, or in the case of the first return, of the incorporation of the company, by persons who are still members and persons who have ceased to be members.

Note sixteen Every company must have at least one full-time Irish resident director or a bond or certificate in place pursuant to s43(3) and s44 Companies (Amendment)(No.2) Act 1999. Note that an Irish resident alternate director is not sufficient for the purposes of s43. Place a tick in the "Irish resident" box if the director is resident in the State in accordance with s43 of the 1999 Act as defined by s44(8) and (9) of that Act. If no full-time director is so resident and no certificate has been granted, a valid bond must be furnished with the return, unless same has already been delivered to the CRO on behalf of the company. (Please note that "Irish resident" means resident in the Republic of Ireland.) For further information see CRO Information Leaflet No. 17.

Note seventeen Please tick the box if the director is an alternate (substitute) director. If the company's articles so permit and subject to compliance with those articles, a director may appoint a person to be an alternate director on his/her behalf. The appointment of any person to act as director is notifiable by a company to the CRO, regardless of how the appointment is described. The company is statutorily obliged to notify the CRO of the addition to and removal of each person from its register. In the event that a full-time director who has appointed an alternate director ceases to act as director, the company is required to notify the CRO of the termination of appointment of the full-time director and of his/ her alternate. Note: The CRO accepts no responsibility for maintaining the link between a full-time director and his/ her alternate.

Note eighteen Company name and number of other bodies corporate, whether incorporated in the State or elsewhere, except for bodies (a) of which the person has not been a director at any time during the past ten years; (b) of which the company is (or was at the relevant time) a wholly owned subsidiary; or (c) which are (or were at the relevant time) wholly owned subsidiaries of the company. Pursuant to s45(1) Companies (Amendment)(No.2) Act 1999, a person shall not at a particular time be a director of more than 25 companies. However, under s45(3), certain directorships are not reckoned for the purposes of s45(1).

Note nineteen Place of incorporation if outside the State.

Note twenty Tick the relevant box(es).

Checklist of documents annexed

Balance Sheet S 128 Companies Act 1963 (CA 63); S7 & S18 Companies (Amendment) Act 1986 (CAA 86) ☐

Profit and Loss Account S7 and S18 CAA 86 ☐

Notes to the Accounts Schedule of CAA 86 (refer specifically to s12 for notes required in the case of small / medium sized businesses) ☐

Directors' Report S128 CA 63; S7 & S18 CAA 86 ☐

Auditor's Report S128 CA 63; S7 & S18 CAA 86 ☐

Special Auditor's Report Duly certified by a director and secretary to be a true copy of the report S128(6B) CA 63 ☐

Overall Certification The Acts require that the balance sheet, profit and loss account, directors' report and auditor's report be certified by both director and secretary to be a true copy as laid or to be laid before the A.G.M. or sent to the sole member in accordance with the single member private limited company regulations. In the case of full accounts, an overall certification will be sufficient. ☐

Guarantee by parent undertaking of the liabilities of subsidiary undertaking S17 CAA 86 as amended ☐

Declaration of consent by shareholders of subsidiary to exemption S17 CAA 86 as amended ☐

Notification to shareholders of Guarantee S17 CAA 86 as amended ☐

Note stating company has availed of exemptions in s17 CAA 86 as amended ☐

Accounting documents

Reg 39 E.C. (Companies: Group Accounts) Regulations 1992 ☐

Reg 7 E.C. (Credit Institutions: Accounts) Regulations 1992 ☐

Reg 7 E.C. (Accounts) Regulations 1993 ☐

Regs 5, 17 E.C. (Insurance Undertakings: Accounts) Regulations 1996 ☐

Section 43 Bond See note sixteen above. ☐

Form B73 Nomination of a new ARD ☐

Further Information

Professional Advice If you have a problem completing this annual return, and in particular are unclear of the requirements pertaining to a company's ARD, you should consult your professional adviser.

Change in Details Where applicable, the particulars given on Form B1 must accord with the particulars contained in the documentation already delivered to the CRO. The most common forms used to notify the CRO of any changes to the company details are:

- B2 Notice of change in the situation of the registered office
- B3 Notice of places where register of members, register of debenture holders, register of directors' and secretary's interests in shares and debentures, and directors' service contracts/ memoranda are kept
- B4 / G1 Notice of increase in authorised capital
- B5 Return of allotments (increase in issued share capital)
- B10 Notice of change of directors or secretaries or in their particulars

CRO Address When you have completed and signed the form, please send with the prescribed fee to the Registrar of Companies at:

Parnell House, 14 Parnell Square, Dublin 1 - DX 145001 Parnell House

Please carefully study the explanatory notes overleaf. A Form B1 that is not completed correctly or is not accompanied by the correct documents or fee is liable to be rejected and returned to the presenter by the CRO pursuant to section 249A Companies Act 1990 (Inserted by section 107 Company Law Enforcement Act 2001). Unless the document, duly corrected, is relogged in the CRO within 14 days, it will be deemed to have never been delivered to the CRO.

FURTHER INFORMATION ON COMPLETION OF FORM B1, INCLUDING THE PRESCRIBED FEE, IS AVAILABLE FROM www.cro.ie OR BY E-MAIL Info@cro.ie

Other Directorships

Company Number 368236

Form B1 Continuation sheet

Director's Name PATRICK POWER

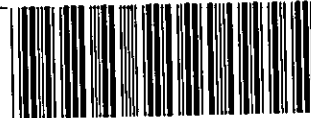
Other directorships

Company Name <i>note eighteen</i>	Place of Incorporation <i>note nineteen</i>	Company Number	Resigned
Conocophillips Ireland Limited		341156	30/11/2002
Irish National Petroleum Corporation Limited		69757	16/07/2001
Petroplus Holdings Ag	Switzerland		
The Multiple Sclerosis Society Society of Ireland		296573	

SHANNON LNG LIMITED

REPORT AND FINANCIAL STATEMENTS

PERIOD ENDED 31 DECEMBER 2007



3372598

Certified to be a true copy of the balance sheet, profit and loss account, directors' report and auditor's report as laid to the sole member of the Company in accordance with the European Communities (Single-Member Private Limited Companies) Regulations, 1994


Director

For and on behalf of Matsack Trust Limited


Secretary

SHANNON LNG LIMITED

**DIRECTORS' REPORT AND
FINANCIAL STATEMENTS**

**FOR THE YEAR ENDED
31 DECEMBER 2007**

C. R. O.
6 - OCT 2008

Shannon LNG Limited

DIRECTORS' REPORT AND FINANCIAL STATEMENTS for the year ended 31 December 2007

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Shannon LNG Limited

COMPANY INFORMATION

DIRECTORS

Patrick Power
Gordon Shearer

SECRETARY

Matsack Trust Limited

REGISTERED OFFICE

30 Herbert Street
Dublin 2

SOLICITORS

Matheson Ormsby Prentice
30 Herbert Street
Dublin 2

BANKERS

Allied Irish Bank
Main Street
Blackrock
Dublin

AUDITORS

Ernst and Young
Chartered Accountants
Barrington House
Barrington Street
Limerick

Shannon LNG Limited

DIRECTORS' REPORT

for the year ended 31 December 2007 (All figures are expressed in thousands of Euro)

The directors present their report and financial statements for the year ended 31 December 2007.

PRINCIPAL ACTIVITIES, BUSINESS REVIEW AND FUTURE DEVELOPMENTS

Shannon LNG Limited (Company) is a development stage company, engaged in the development of liquefied natural gas (LNG) marine import terminals. The company is currently working to secure all necessary permits to develop a terminal located in County Kerry. Construction of the terminal is expected to begin once all the permits are obtained.

The company was formerly known as the Irish National Energy Company Limited (INEC). On 19th April 2006 Hess LNG Limited (HESS LNG), a joint venture between Hess Oil and Gas Holdings Inc. (HOGHI), a subsidiary of Hess Corporation (HESS) and Midstream Beta Limited, a subsidiary of Poten & Partners Group, LLC (POTEN) acquired INEC. The name of the company was changed from INEC to Shannon LNG Limited on that date.

On 19th April 2006, the company entered into an option agreement with Shannon Free Airport Development Company Limited to purchase up to 281 acres for the purposes of developing an LNG marine import terminal. As of 31 December 2007 the company has paid €1,233k under the terms of the option agreement.

RESULTS FOR THE YEAR AND STATE OF AFFAIRS AT 31 DECEMBER 2007

The profit & loss account and balance sheet are set out on pages 7 & 8. All project startup costs incurred to date have been charged to expense, with the exception of option payments for the project site in Shannon and deposits for office space. The company recorded a loss of €8,490k for the year (2006: €2,550k).

IMPORTANT EVENTS SINCE THE YEAR END

On 28 March 2008, An Bord Pleanála granted the Company planning permission to construct an LNG regasification terminal on the southern shore of the Shannon Estuary in County Kerry.

DIRECTORS

The present directors are listed on page 2. They have served throughout the period.

BOOKS AND ACCOUNTING RECORDS

The directors are responsible for ensuring that proper books and accounting records, as outlined in Section 202 of the Companies Act, 1990, are kept by the company.

To achieve this, the directors have appointed appropriate personnel to ensure that those requirements are complied with.

These books and accounting records are maintained at 30 Herbert Street, Dublin 2.

DIVIDENDS

The directors of the company do not propose the payment of a dividend for the year.

Shannon LNG Limited

DIRECTORS' REPORT

for the year ended 31 December 2007

DIRECTORS' AND SECRETARY'S INTERESTS

The interests of directors in the share capital of the company at the beginning and end of the year were as follows:

Director	At 31 December 2006 Number of Ordinary Shares	At 31 December 2007 Number of Ordinary Shares
Patrick Power	-	-
	At 31 December 2006 Number of Def. Ordinary Shares	At 31 December 2007 Number of Def. Ordinary Shares
Patrick Power	5,000	5,000

STATEMENT OF DIRECTORS' RESPONSIBILITIES IN RESPECT OF THE FINANCIAL STATEMENTS

The directors are responsible for preparing the financial statements in accordance with applicable Irish law and Generally Accepted Accounting Practice in Ireland including the accounting standards issued by the Accounting Standards Board and promulgated by the Institute of Chartered Accountants in Ireland.

Company law requires the directors to prepare financial statements for each financial year, which give a true and fair view of the state of affairs of the company and of the profit or loss of the company for that period. In preparing those financial statements, the directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the company will continue in business.

The directors are responsible for keeping proper books of account which disclose with reasonable accuracy at any time the financial position of the company and enable them to ensure that the financial statements are prepared in accordance with accounting standards generally accepted in Ireland and comply with the Companies Acts, 1963 to 2006. They are also responsible for safeguarding the assets of the company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

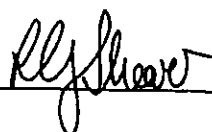
AUDITORS

The auditors, Ernst & Young, Chartered Accountants, will continue in office in accordance with Section 160(2) of the Companies Act, 1963.

On behalf of the board on

Directors

E



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INDEPENDENT AUDITORS' REPORT TO THE MEMBERS OF SHANNON LNG LIMITED

We have audited the company's financial statements of Shannon LNG Limited for the year ended 31 December 2007 which comprises the Profit and Loss Account, the Balance Sheet and the related notes 1 to 15. These financial statements have been prepared under the accounting policies set out therein.

This report is made solely to the company's members, as a body, in accordance with section 193 of the Companies Act, 1990. Our audit work has been undertaken so that we might state to the company's members those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company and the company's members as a body, for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of directors and auditors

The directors are responsible for the preparation of the financial statements in accordance with applicable Irish law and Accounting Standards issued by the Accounting Standards Board and promulgated by the Institute of Chartered Accountants in Ireland (Generally Accepted Accounting Practice in Ireland) as set out in the Statement of Directors' Responsibilities.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

We report to you our opinion as to whether the financial statements give a true and fair view and are properly prepared in accordance with the Companies Acts, 1963 to 2006. We also report to you our opinion as to: whether proper books of account have been kept by the company; whether, at the balance sheet date, there exists a financial situation which may require the convening of an extraordinary general meeting of the company; and whether the information given in the Directors' Report is consistent with the financial statements. In addition, we state whether we have obtained all the information and explanations necessary for the purposes of our audit and whether the financial statements are in agreement with the books of account.

We also report to you if, in our opinion, any information specified by law regarding directors' remuneration and other transactions is not disclosed and, where practicable, include such information in our report.

We read the Directors' Report and consider the implications for our report if we become aware of any apparent misstatements within it.

Basis of audit opinion

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgments made by the directors in the preparation of the financial statements, and of whether the accounting policies are appropriate to the company's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

INDEPENDENT AUDITORS' REPORT TO THE MEMBERS OF SHANNON LNG LIMITED

Opinion

In our opinion the financial statements give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland, of the state of affairs of the company as at 31 December 2007 and of its loss for the year then ended and have been properly prepared in accordance with the Companies Acts, 1963 to 2006.

We have obtained all the information and explanations we consider necessary for the purposes of our audit. In our opinion proper books of account have been kept by the company. The financial statements are in agreement with the books of account.

In our opinion the information given in the Directors' Report is consistent with the financial statements.

In our opinion, the balance sheet shows an excess of liabilities over assets and, in our opinion, on that basis there did exist at 31 December 2006 a financial situation which under Section 40(1) of the Companies (Amendment) Act, 1983 may require the convening of an extraordinary general meeting of the company.

Emphasis of Matter – Going Concern

In forming our opinion, which is not qualified, we have considered the adequacy of the disclosures made in Note 1 to the financial statements concerning the uncertainty over the ability of the company to continue as a going concern. In view of the significance of this uncertainty we consider that it should be drawn to your attention. The financial statements do not include the adjustments that would result if the company was unable to continue as a going concern.

Ernst & Young
Registered Auditors
Limerick

Date:

Shannon LNG Limited

PROFIT AND LOSS ACCOUNT for the year ended 31 December 2007

	Note	2007 €'000	2006 €'000
Sales		-	-
Cost of sales		-	-
GROSS PROFIT		-	-
Other (losses)/gains		-	-
Administrative expenses		-	-
Other income		-	-
Other expenses		(8,490)	(2,550)
(Loss) before income tax	2	(8,490)	(2,550)
Income tax expense	4	-	-
LOSS RETAINED FOR THE PERIOD		(8,490)	(2,550)

The company has no other recognised gains or losses in the current financial year other than those dealt with in the profit & loss account.

On behalf of the board on

Directors

Rly Shear *J. Power*

Shannon LNG Limited

BALANCE SHEET for the year ended 31 December 2007

	Note	2007 €'000	2006 €'000
FIXED ASSETS			
Intangible fixed assets	5	1,233	493
Deposits		32	32
		<u>1,265</u>	<u>525</u>
CURRENT ASSETS			
Debtors	6	257	155
Cash and cash equivalents		261	39
		<u>518</u>	<u>194</u>
CREDITORS: amounts falling due within one year	7	(766)	(464)
NET CURRENT LIABILITIES		<u>(248)</u>	<u>(270)</u>
TOTAL ASSETS LESS CURRENT LIABILITIES		<u>1,017</u>	<u>255</u>
CREDITORS: amounts falling due after more than one year	8	(12,408)	(3,156)
NET (LIABILITIES)		<u>(11,391)</u>	<u>(2,901)</u>
CAPITAL AND RESERVES			
Share capital	10	1	1
Retained loss		(11,392)	(2,902)
Shareholders' deficit (all equity interests)	9	<u>(11,391)</u>	<u>(2,901)</u>

On behalf of the board on

Directors

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2007

1. ACCOUNTING POLICIES

(a) *Going concern*

The accompanying financial statements have been prepared on a going concern basis. As shown in the Profit and Loss account and Balance Sheet, the company has a limited amount of cash, has incurred losses and has accumulated a deficit during the development stage. These factors indicate the company may be unable to continue as a going concern. The financial statements do not include any adjustments that might be necessary should the company be unable to continue as a going concern.

The directors recognize that continuing as a going concern is dependent on among other factors, obtaining funding from Hess LNG. The company has an interest free loan agreement with Hess LNG. Through the end of 2007, the company has borrowed €12,408k under this agreement, with a further €6,540k borrowed since the end of 2007. The loan agreement provides project funding up to €30,000k. The directors believe that the funding through the loan agreement will be sufficient to allow the company to continue as a going concern.

(b) *Basis of preparation*

The financial statements are prepared in accordance with generally accepted accounting principles under the historical cost convention and comply with financial reporting standards of the Accounting Standards Board, as promulgated by the Institute of Chartered Accountants in Ireland.

(c) *Start up costs*

All project startup costs incurred to date have been charged to expenses, with the exception of option payments for the project site in Shannon and deposits for office space.

(d) *Cash and cash equivalents*

Cash equivalents consist of highly liquid investments, which are readily convertible into cash and have maturities of three months or less when acquired.

(e) *Taxation*

The company has not generated any income to date, and as a result has not incurred any corporation taxes.

(f) *Cash Flow*

Financial Reporting Standard Number 1, "Cash Flow Statements", exempts small companies as defined in the companies' legislation from preparing cash flow statements. The company has availed of this exemption.

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2007

2. PROFIT ON ORDINARY ACTIVITIES BEFORE TAXATION

	2007 €'000	2006 €'000
The profit before taxation is stated after charging:		
Directors' emoluments	394	276
Auditors' remuneration	38	42
	<hr/>	<hr/>

3. WAGES & SALARIES

The average number of persons employed by the company in the financial year was 3 (2006: 1) and is analysed into the following categories:

	2007 Number	2006 Number
No. of staff	3	1
	<hr/>	<hr/>
	2007 €'000	2006 €'000
The staff costs comprise:		
Wages and salaries	621	299
Social welfare costs	67	32
	<hr/>	<hr/>
	688	331
	<hr/>	<hr/>

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2007

4. TAX ON (LOSS) ON ORDINARY ACTIVITIES

(a)	Analysis of profit and loss account charge:	2007 €'000	2006 €'000
	Current tax:		
	Republic of Ireland corporation tax on profits of the period at 12.5% (see reconciliation below)	-	-
	Tax on (loss) on ordinary activities	-	-

(b) Reconciliation of the expected tax charge at the standard tax rate to the actual tax charge at the effective rate

The tax assessed for the year is lower than the standard rate of corporation tax in the Republic of Ireland (12.5%).
The differences are explained below:

	2007 €'000	2006 €'000
(Loss) on ordinary activities before tax	(8,490)	(2,550)
(Loss) on ordinary activities multiplied by the standard rate of corporation tax in the Republic of Ireland of 12.5% (2006: 12.5%)	(1,061)	(319)
Effects of: Increase in losses forward	1,061	319
Tax on (loss) on ordinary activities	-	-

5. INTANGIBLE FIXED ASSETS

	Property, plant & equipment €'000	Total €'000
Opening balance	493	493
Additions	740	740
Amortisation	-	-
Net book value	1,233	1,233

The intangible asset arises on the option to purchase land from Shannon Free Airport Development Company Limited.

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2007

6. DEBTORS

	2007 €'000	2006 €'000
Amounts falling due within one year:		
Trade and other receivables	257	155

7. CREDITORS: amounts falling due within one year

	2007 €'000	2006 €'000
Trade and other payables	766	464

8. CREDITORS: amounts falling due after more than one year

	2007 €'000	2006 €'000
Amounts due to parent undertaking	12,408	3,156

The company has entered into an interest free loan agreement with Hess LNG to provide funding for project development. The facility provides funding up to €30,000k. As at 31 December 2007 the company had a loan balance with Hess LNG of €12,408k.

9. RECONCILIATION MOVEMENTS IN SHAREHOLDERS' FUNDS

	2007 €'000	2006 €'000
(Loss) retained for the year	(8,490)	(2,550)
Opening shareholders' deficit	(2,901)	(351)
Closing shareholders' deficit	(11,391)	(2,901)

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2007

10. CALLED UP SHARE CAPITAL

	2007	2006
Authorised:		
1,000,000 ordinary shares of €0.01 each	10,000	10,000
20,000 deferred ordinary shares of €0.01 each	200	200
Allotted, called up and fully paid:		
40,000 ordinary shares of €0.01 each	400	400
20,000 deferred ordinary shares of €0.01 each	200	200
	600	600
Rounded amount	€'000	€'000
Allotted, called up and fully paid	1	1

Each of the Ordinary Shares and the Deferred Ordinary Shares shall rank *pari passu* in all respects save as specifically set out below:-

As Regards Dividend

- Each of the Ordinary Shares shall rank *pari passu* in all respects as to dividends.
- The Deferred Ordinary Shares shall confer upon the holders thereof no right to receive any dividend thereon.

As Regards a Return of Capital

- In the event of any liquidation, dissolution or winding-up of the Company, either voluntarily or involuntarily, the assets and retained profits available for distribution to the holders of Ordinary Shares in the capital of the Company shall be distributed with equal priority among the holders of Ordinary Shares in the same proportions as the holders hold such Ordinary Shares.
- The holders of Deferred Ordinary Shares shall have no rights to share in the assets or retained profits of the Company in the event of any liquidation, dissolution or winding-up of the Company.

As Regards Voting at General Meetings

- The holders of Ordinary Shares shall each be entitled to receive notice of, and to attend and speak and vote at, general meetings of the Company.
- The Deferred Ordinary Shares shall not confer upon the holders thereof the right to receive notice of or to attend or vote at general meetings of the Company.

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2007

10. CALLED UP SHARE CAPITAL (continued)

As Regards Conversion of the Deferred Ordinary Shares

The following rights shall attach to Deferred Ordinary Shares as regards conversion:

- (a) All of the Deferred Ordinary Shares held by a Deferred Ordinary Shareholder shall automatically convert into Ordinary Shares in accordance with the Conversion Rate specified in Article 4.4(b) in the Memorandum and Articles of Association, on the occurrence of the Final Investment Decision.
- (b) Each holder of Deferred Ordinary Shares shall be entitled to receive one Ordinary share, and the corresponding share certificate for each Deferred Ordinary share held by him on the date of the Final Investment Decision

11. CONTROLLING PARTIES

Shannon LNG Limited is a wholly owned subsidiary undertaking of Hess LNG Limited, an undertaking incorporated in the Cayman Islands. The parent undertaking of the smallest group of undertakings for which group financial statements are drawn up, and of which the company is a member, is Hess Corporation. Copies of its group financial statements are available from 1185 Avenue of the Americas, New York, NY 10036, United States.

Hess LNG Limited is a joint venture between Hess Oil and Gas Holdings Inc. (HOGHI), a subsidiary of Hess Corporation (HESS) and Midstream Beta Limited, a subsidiary of Poten & Partners Group LLC (POTEN). The ultimate controlling parties are both incorporated in the United States. Copies of the group financial statements for Hess Corporation are available from 1185 Avenue of the Americas, New York, NY 10036, United States.

12. RELATED PARTIES

A summary of all material transactions between the company and its members and affiliates follows:

<u>Services Agreement</u>	<u>2007</u>	<u>2006</u>
	<u>€'000</u>	<u>€'000</u>
Hess LNG	859	330

The company has entered into a services agreement with Hess LNG to provide certain services including coordination of project development, as well as legal and accounting support.

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2007

13. CONTINGENCIES

The company is subject to contingent liabilities with respect to existing or potential claims, lawsuits and other proceedings. The company considers these routine and incidental to its business and not material to its financial position or results of operations. The company accrues liabilities when the future costs are probable and reasonably estimable.

14. DEFERRED TAXATION

A deferred taxation asset of €1m, which has arisen due to accumulated pre trading tax losses, has not been recognised on the grounds that there is insufficient evidence that the asset will be recoverable. These pre trading losses would become recoverable in the future only if the company became profitable within the next three years.

15. APPROVAL OF FINANCIAL STATEMENTS

The directors approved the financial statements on



**Oifig an Ombudsman
Office of the Ombudsman**

Our Reference : L18/07/2518

5 January 2009

Mr John McElligott
Kilcolgan Residents Association
Island View
5 Convent Street
Listowel
Co. Kerry

Dear Mr McElligott

I refer to your letter dated 26 September 2008 and previous correspondence to this Office, in connection with a complaint against Kerry County Council in relation to the decision not to carry out an Strategic Environmental Assessment (SEA) on a variation to the County Development Plan.

Your most recent correspondence raised a wide variety of issues in relation to the role played by both the officials and elected member of the Council. It is therefore appropriate that I clarify at the outset the role of this Office in relation to the issues which you have raised.

The role of the Ombudsman

At the outset, I should explain the role of the Ombudsman in dealing with complaints. The Ombudsman may examine actions carried out by certain public bodies, where there is evidence to suggest that maladministration (i.e., improper, incorrect or unfair administration) has occurred and the action complained of has had an adverse effect on the complainant.

In the Ombudsman Act, 1980 maladministration includes an action that was or may have been taken:

- without proper authority;
- on irrelevant grounds;
- as a result of negligence or carelessness;
- based on erroneous or incomplete information;
- improperly discriminatory;
- based on an undesirable administrative practice;
- otherwise contrary to fair or sound administration.

The Ombudsman's role does not extend to examining the reserved functions of the elected members referred to in your correspondence. Reserved functions are those which can only be exercised by the elected members of the Authority, as opposed to executive functions which are exercised by the Manager and officials of the local authority. Under the Ombudsman Act, 1980 (as amended) reserved functions are excluded from the Ombudsman's jurisdiction. Therefore this Office cannot examine a decision of the elected members of the County Council taken in the performance of a reserved function and includes the making of a development plan .

The Ombudsman's remit does not extend to examining the actions of the Shannon Airport Development, Shannon Foynes Port Company or, An Bord Pleanála.

The Council's position.

Previous correspondence has outlined the Council's response to the points raised in your complaint. The Council's position may be summarised as follows :

- The land in question was identified for industrial development as far back as 2003, years in advance of any LNG proposal.
- The proposed variation to the development was advertised and it was clear that "the lands have been identified at Ballylongford/ Tarbert as application for such a development had been lodged".
- It does not accept your contention that the re-zoning was specific to the LNG proposal. The variation was to zone lands for industrial use.
- The Consultants , (RPS.)employed by the Council to carry out the required scooping process, recommended that an SEA was not required.
- The relevant bodies were consulted i.e. the EPA, the Department of Environment, Heritage and Local Government and the Department of Communications, Marine and Natural Resources.
- Clare County did not receive a screening report as it is not a statutory body for this process.
- There is no prohibition on development in SAC's, SPA's, NHA's. The zoned land is, in any event, not in any of these areas.
- It is a normal practice in assessing development proposals to inspect similar facilities.

This Office's position

Having considered your complaint in very great detail I am of the opinion that the Council undertook its obligations in accordance with the statutory provisions that exist for the re-zoning of the land. I had indicated my preliminary view to you during our conversations in relation to the complaint but I have also undertaken a specific consideration of the issue raised in your letter in relation to whether the Council should have advised RPS of the possibility of the LNG facility being developed.

While it may seem surprising that the Council had not mentioned the proposed use of this facility in its dealings with the Consultants it is equally surprising that the Consultants would be unaware of the intended use given that the issue was in the public domain at the time. I

therefore asked the Council to elaborate on the issue and sought further information concerning correspondence between the parties in the time preceding their appointment to carry out the study, and indeed in the months after their report was submitted.

In the correspondence subsequently received from the Council there is no evidence that RPS were aware of the proposed facility and even if they were, the focus of the SEA Statement is in relation to the re-zoning of the land for industrial use. The Statement makes it very clear that it is not specific to any project. The Council have also maintained throughout that it would have been unreasonable for it to limit its discretion to consider other applications for other industrial uses by focusing on the possibility of the LNG facility proceeding. It also maintains, not unreasonably in my opinion, that at the time, any consideration of the LNG facility would itself have to be subject to very detailed consideration throughout the planning process with the possibility of the issue ending up at An Bord Pleanála under appeal by one party or the other, whatever the outcome. As it transpired the proposal did end up at Bord Pleanála where the decision was ultimately made. I also understand that the pipeline element of the proposal is now the subject of a further oral hearing by An Bord Pleanála.

Your letter also asked that this Office confirm with the Council the membership of the senior management team. It has indicated that the membership consisted of Mr Martin Riordan, Former County Manager, Mr. Tom Curran, formerly Director of Roads and Transportation and current Co. Manager, Mr Michael McMahon, Director of Planning and Mr Tom Sheehy, Snr Engineer, Planning. Other officials were consulted as necessary.

You had also specifically asked that the Council supply copies of any emails between it and RPS the company employed to carry out the screening report in relation to the proposed variation to the County Development Plan. The Council has indicated that other than its proposal in relation to the SEA Statement no emails exist. I had also asked that the Council confirm that other correspondence between it and RPS was in the public domain and it has done so.

Summary

Your letter of 28 September, 2008 refers to the actions of a wide range of bodies most of which are outside the Ombudsman's remit. The examination of your complaint has therefore been concerned almost exclusively with the actions of Kerry County Council. That examination has focused on whether the Council acted in accordance with the correct administrative procedures for dealing with this matter.

The main element of your complaint that could be examined lay in relation to whether or not the Council should have advised RPS of the LNG proposal. You contend that had it done so it would allow it to take this into account when deciding whether or not to recommend that an SEA be carried out in respect of the proposed variation to the County Development Plan. You also contend that it is inexplicable that such a major proposal should escape the notice of any company carrying out a screening report and that in any event, the Council should have informed RPS of a proposal of this magnitude.

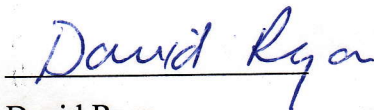
The Council for its part maintain that it has carried out its statutory duties exactly in accordance with the way they are set out in law. It also maintains that it would have unnecessarily restricted the process by linking the variation to the LNG proposal given that

there was no guarantee that it would proceed. It has also maintained that the legal and planning process would allow for all points of view to be considered, before any approval was given to the LNG project. This is an argument that is difficult to refute given what is taking place at the present and the other safeguards that exist to ensure the proposal is scrutinised correctly.

I had indicated at the outset that my preliminary view was that the Council had acted in accordance with the correct administrative procedures and, having examined the issue in further detail, this would still be my conclusion. Whether or not the Council should have advised RPS of the proposal in advance of the screening report is a very moot point but, I do not consider that there is sufficient evidence to show that this decision was indicative of bad administrative practice.

You are welcome to contact at 01 6395613 if you require any further clarification .

Yours sincerely



David Ryan
Investigator



Kilcolgan Residents Association
Protecting the Shannon Estuary

Kilcolgan Residents Association
c/o Island View
Convent Street
Listowel
County Kerry

Telephone: +353-87-2804474
Email: safetybeforelng@hotmail.com
Web: www.safetybeforelng.com

26 September 2008

David Ryan, Investigator,
The Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2
By Email to: david_ryan@ombudsman.gov.ie
c.c. ombudsman@ombudsman.gov.ie

Re: Complaint concerning refusal to carry out an SEA on variation No 7 of 2007 to Kerry
County Development Plan (reference L18/07/2518)

Dear Mr. Ryan,

It is our contention that the decision to build an LNG terminal was decided at the highest levels in the Irish Government and now the different statutory bodies are retrospectively approving this without any concern for safety, environmental or strategic issues.

In our opinion Kerry County Council refused to carry out an SEA on the lands about to be rezoned for the proposed LNG terminal because there was an option to purchase conditional on obtaining planning permission for an LNG terminal within 2 years on land zoned 'rural general' and 'secondary special amenity' for a price we believe to be in the region of 28 million euros. A full SEA would have taken upwards of 1 year to complete alone. Therefore, it is our view that the refusal was motivated by this condition to the detriment of the people of the south west on health, safety, environmental and strategic planning grounds.

The Local Government Act 2001 clearly states its requirement of Standards of integrity in Article 168 as follows:

*"In carrying out their functions under this or any other enactment, it is the duty of every member and every employee of a local authority and of every member of every committee to maintain proper standards of integrity, conduct and concern for the public interest."*¹

¹ <http://www.irishstatutebook.ie/2001/en/act/pub/0037/print.html>

We are therefore now requesting that you determine that proper standards of integrity, conduct and concern for the public interest were not maintained by Kerry County Council employees as required of them under Article 168 of the Local Government Act 2001. From your letter dated April 3rd 2008, Kerry County Council claimed that:

“Kerry County Council is unaware as to whether or not the consultants were aware of the LNG proposal as it was in the public arena at that time.”

From your letter dated September 1st 2008, Kerry County Council confirmed that:

“RPS have confirmed that they were unaware of the proposed LNG proposal at the time of the screening process”

RPS should have been told about the proposed LNG terminal by Kerry County Council. Not to do so, if indeed that is the truth, was **NEGLIGENT BEHAVIOUR and a breach of procedure and ethics obliged of council members and employees by Article 168 of the Local Government Act 2001**. because the legislation obliges the SEA screening process to take into account developments “likely” to have an effect on the environment.

Who was in the Subcommittee of the senior management team created to deal with the Shannon LNG project as outlined in point 4 below? Those members had a duty under Article 168 of the Local Government Act 2001 to disclose to RPS who undertook the SEA screening report in November 2006 that the site was earmarked for an LNG terminal 6 months earlier. An EIS is not an SEA. EIS is project specific; an SEA is region and strategic specific.

It might be an idea to get all email communications between the council and RPS to confirm the veracity of the council’s claims.

The EPA² and Clare County Council³ could not confirm receipt of the SEA screening Report. Why not get proof of whether these were given or not?

It is misleading for Kerry County Council to state that:

“To have considered Shannon LNG as part of the screening process would have involved a different type of specific zoning e.g. zoned specifically for a gas storage and importation terminal”.

This is because the lands only needed to be zoned “Industrial” for an LNG terminal (as that is what they are zoned at now for the LNG terminal). No other specific zoning was needed.

Please find the following timeline of events regarding this complaint which we believe to be accurate:

² Email communication with Kerry County Council submitted to the Ombudsman’s Office on November 19th 2007 as attachment 8

³ Email confirmation by John Bradley of Clare County Council forwarded to the Ombudsman’s office on November 21st 2007

1. June 2004: Plans were announced by the Shannon Foynes Port Company to invest 53 million euros in port facilities along the Shannon Estuary, which would include a major transshipment terminal at Ballylongford on the site of the proposed LNG terminal⁴. However, since the LNG terminal was proposed, all plans for this transshipment facility have mysteriously been shelved
2. May 2006: The decision to build an LNG terminal, a top-tier Seveso II development, was announced in the Dail by Minister Dempsey as follows:

*“Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey): Another welcome development is the announcement on 22 May last that Shannon Development has entered into an ‘option-to-purchase’ agreement with Shannon LNG. This Irish subsidiary of Fortune 500 Company Hess LNG Limited is developing a project to build a €400 million liquefied natural gas (LNG) receiving terminal near Tarbert on the Shannon Estuary. The project could potentially provide up to 40% of Ireland’s gas requirements and I am certainly interested in exploring the scope for realising that potential with all concerned, bearing in mind that this is a commercial venture. The estimated date for completion of the project is 2011.”*⁵
3. May 2006: Shannon LNG equally announced an option to purchase, subject to planning, the lands at Kilcolgan owned by Shannon Development, as follows⁶:

“Shannon LNG, an Irish subsidiary of Hess LNG Limited, which is a 50/50 joint venture of Hess Corporation and Poten & Partners, is at the early stages of a major development which will help secure Ireland’s long-term supply of natural gas. The company has entered into an ‘option-to-purchase’ agreement with Shannon Development, the regional development agency, in relation to 281 acres of the 600-acre state-owned land bank between Tarbert and Ballylongford, County Kerry. Subject to feasibility studies, technical assessments and in due course, planning and other approvals, it will become the site for a major 400 million Euro liquefied natural gas (LNG) import terminal.”

The Shannon Foynes Port Company, of which then Councillor Ned O’Sullivan was a director at the time of the rezoning, described the development as follows:

*“The development site is located immediately to west of Ardmore Point. It is on State (Shannon Airport Development Co) owned land and is designated for development with a four year option. Shannon LNG is the developer. The **company is required to achieve planning permission within 2 years.**”⁷*

⁴ <http://www.sfpc.ie/news023-articles.htm>

⁵ <http://historical-debates.oireachtas.ie/D/0620/D.0620.200605300043.html>

⁶ <http://www.shannonlngplanning.ie/files/Newsletters/Issue1.pdf> page 1

⁷ http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

Shannon Development's Annual Report 2006⁸ even publicises a photo opportunity on the announcement with Councillor John Brassil, Minister Martin and senior vice president of Hess Corporation Gordon Shearer holding a map of the Greenfield rural site in North Kerry where the LNG terminal is proposed.



Pictured at the announcement by Micheál Martin TD, Minister for Enterprise, Trade and Employment, that Shannon Development has signed an 'option to purchase' agreement with Shannon LNG, a subsidiary of Hess LNG, for a portion of Shannon Development land bank at Tarbert/Ballylongford, Co Kerry, were (l-r): Kevin Thompstone, Chief Executive, Shannon Development; John Brassil, Board Member, Shannon Development, Eugene Brennan, Development and Marketing Director, Shannon Development, Gordon Shearer CEO, Hess LNG, and Minister Micheál Martin.

We are concerned at how Shannon Development could sign an “option-to-purchase” agreement with a developer conditional on obtaining planning permission for a top-tier Seveso II hazardous LNG terminal within 2 years⁹. It is highly questionable how Shannon Development could guarantee that planning permission could be obtained within 2 years for lands that, at the time, were zoned Rural General and Secondary Special Amenity.

We are also concerned that Shannon Foynes Port Company is the only party to be aware of and to have made publicly available, in June 2008, the information of the option-to-purchase agreement with Shannon LNG being conditional on obtaining planning permission within 2 years¹⁰. As this two-year condition is a fact, we feel, its directors would also have been aware of, we fear that this may have influenced the decision not to undertake an SEA, especially if director Ned O’Sullivan was aware of this information at the time of the vote. In any case, John Brassil, as a director and member of the Shannon Development board, would certainly have been aware of this 2-year condition.

⁸ <http://www.shannonireland.com/media/Media,6816,en.pdf> The Annual Report 2006 of Shannon Development, page 12 (real page 14)

⁹ http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

¹⁰ http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

4. June 19, 2006¹¹: Kerry County Council Meeting discusses the Shannon LNG project as follows:

*“20. Establishment of a committee to deal with infrastructural development and Planning issues relating to the Ballylongford Land Bank Pursuant to notice duly given **Cllr. J. Brassil** proposed:-*

“In light of the major announcement made by Minister Micheal Martin regarding the development of the Shannon Development owned Ballylongford land bank that Kerry County Council put a team of people together to specifically deal with the infrastructure development and planning issues that will be associated with this project.”

Mr. C. O’Sullivan, SEO Corporate Services read the following report:-

The Ministers announcement in relation to the proposals for Ballylongford is to be welcomed. Preplanning discussion with Shannon LNG will shortly commence. The necessary planning and infrastructure teams will be put in place as discussions develop more fully the particular project proposal and the needs of the Ballylongford Land Bank generally. Project progress will be overseen by Sub Committee of Senior Management Team. The situation will be kept under review as the project progresses.

Cllr. J. Brassil welcomed the report and said that this has the potential to be a huge project for North Kerry and he called on the Executive to give it every support.

Cllr. L. Purtill welcomed the recent announcement for the development of part of Ballylongford Land Bank and supported Cllr. Brassil’s motion.“
5. June 19th – 24th 2006: County Manager with 3 officials (Mr. Michael McMahon Director of Planning & Sustainable Development, Mr. Tom Sheehy Snr. Engineer – Planning Policy and Mr. Declan O’Malley S.E.P. Planning Management (North Kerry)) visit the Everett LNG terminal in Boston USA. The cost of the trip amounted to 5,786.00 Euros (4160.00 Euros for flights and 1,626 Euros for accommodation). They also claimed 3,092.05 Euros in expenses. 8,878.05 Euros was the total cost of the trip. This proves that the LNG terminal development was being taken seriously by the council and that all rezoning was retrospective to accommodate the planning application by Shannon LNG.
6. 18 September 2006: Shannon LNG apply to Kerry County Council for a Weather Station on a 10M. High mast with Security fencing by Shannon LNG at the site of the proposed LNG terminal in Kilcolgan¹²
7. November 2006: RPS publishes Strategic Environmental Assessment Screening Report on the proposed variation to the Kerry County Development Plan. No mention was made of the Shannon LNG proposal. The criteria for determining whether a variation to a

¹¹ Minutes of June 19th 2006 Meeting of Kerry County Council -

<http://www.kerrycoco.ie/minutedocs/Item%202b%20Ordinary%20Minutes%20June%202006.pdf>

¹²

http://www.kerrycoco.ie/ePlan/InternetEnquiry/rpt_ViewApplicDetails.asp?validFileNum=1&app_num_file=063428

development plan requires an SEA is clearly defined in Schedule 2A of the Planning and Development (Strategic Environmental Assessment) Regulations 2004¹³. Seveso sites by their definition are dangerous and subject to the SEVESO Major Accidents Directive and as such fall under Schedule 2A (2) (the risks to human health or the environment (e.g. due to accidents). The full Schedule 2A underlines starkly how an LNG terminal cannot but have a significant effect on the environment and therefore require an SEA. 10 hectares of the proposed LNG development are for building 2 jetties and completing dredging works and ALL of these 10 hectares are on SAC waters. In addition the site surrounds and is surrounded by SAC, NHA and SPA land and water subject to Irish and European Environmental protection legislation. This is seen clearly on the map of the Environmental Designated Areas in the Shannon LNG EIS volume 1 page 2.¹⁴



8. February 7th 2007 (at the latest): Kerry County Council publishes notice of proposed variation No 7 to the Kerry County Development Plan 2003-2009.
9. February 7th 2007: An Bord Pleanála formally wrote to the County Manager on February 7th, 2007 notifying them of Shannon LNG's request for pre-application consultations

¹³ C.f. <http://www.irishstatutebook.ie/2004/en/si/0436.html#article12> Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I No 436 of 2004)

¹⁴ Shannon LNG Terminal EIS volume 1 page 2 submitted to the Ombudsman's Office on November 19th 2007 c.f.

http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_1_of_4_Issue1.pdf

under the planning and Development (Strategic Infrastructure) Act 2006 for an LNG terminal on the said site. This was not a preliminary, speculative request for information but a formal application to bypass Kerry County Council and apply directly for permission from An Bord Pleanála through the new Strategic Infrastructure Act 2006 reference PC0002.¹⁵

10. Feb 7th to March 8th 2007: Clare County Council, as stated in the Manager's Report circulated to the Council Meeting of March 12th 2007, wanted an SEA screening report and complained about the negative environmental impact such a massive development would have. These environmental concerns were completely ignored and not even noted in the minutes of the council meeting. The Clare County Council submission stated the following in the Manager's Report :

*"the proposed rezoning is likely to have a significant impact on the future development of the region, and will have a direct impact on the planned objectives for the Mid West Regional guidelines for the Shannon Estuary and in particular the Planning, Economic and Service Infrastructural development objectives for zone 5 of the plan. Any industrial development including the construction of a deepwater harbour will have a major impact on both the visual and ecological amenities of the area, and potentially on the Lower Shannon Estuarine Environment, including the foreshore of County Clare. Clare County Council would like an appraisal of any SEA investigation which may have been undertaken in respect of the proposed variation."*¹⁶

11. March 8th 2007: Kerry County Council Director of Services, Michael McMahon, publishes the County Manager's Report on Variation No 7 to the Kerry County Development Plan 2003-2009.
12. March 12th 2007: Councillor Ned O'Sullivan **both proposed and voted in favour of the rezoning** along with the other councillors present at the Kerry County Council meeting which saw the value of the lands of Shannon Development sold to Shannon LNG transform to Industrial Zoning and completed the first step to be overcome by Shannon LNG in obtaining planning¹⁷. The lands, we believe, were sold for approximately 28.1 million Euros (open to verification). The area would be under the control of the Shannon Foynes Port Company. The successful rezoning of 600 acres of land, owned only by Shannon Development, we now estimate is worth 60 million Euros.
13. May 4th 2007 : Councillor John Brassil, who was a director and member of the board of Shannon Development, the owners of the rezoned land, at the time of the vote, like councillor O'Sullivan, did not disclose his interest at the meeting, did not withdraw from

¹⁵ An Bord Pleanála case reference PL08. PC0002 Pre-application consultation lodged 06/07/2007 and deemed Strategic Infrastructure Development on 07/09/2007 c.f.
<http://www.pleanala.ie/casenum/PC0002.htm>

¹⁶ Appendix 1: County Manager's Report on the proposed variation No 7 to the Kerry County Development Plan 2003- 2009

¹⁷[http://www.kerrycoco.ie/minutedocs/Item%20No%202\(a\)%20Minutes%20of%20March%20Meeting.pdf](http://www.kerrycoco.ie/minutedocs/Item%20No%202(a)%20Minutes%20of%20March%20Meeting.pdf) pages 6 and 7

the meeting and also voted for the variation. Mr. Brassil was subsequently appointed Chairman of Shannon Development by the then Minister for Enterprise, Trade and Employment (Mr Micheál Martin T.D.) on May 4th 2007 - a mere 2 months after the rezoning.

14. July 2007: Councillor Ned O’Sullivan, who was a member of the board of directors of Shannon Foynes Port Company stepped down as director of this company following his election to the Seanad in July 2007.¹⁸

15. April-October 2007: Some time after the April 2007 General Election, not later than October 2007, Senator O’Sullivan was appointed to the Joint Committee on Climate Change, the functions of which were:

“to consider medium and long term climate change targets; the role of the Agriculture sector in providing bio-fuel and biomass crops; the levels of power supply which can be generated from renewables or other new power supplies; the projected energy demand from transport and the implications for energy security and emissions targets.”¹⁹

16. January 2008: Our complaint is not spurious and this is supported by the simple fact that the proposed LNG terminal is a significant top-tier Seveso II establishment, which by its very designation, is accepted in law as a hazardous installation, with the consequence area of a worst-case scenario accident of 12.4 kilometres. In addition, world renowned LNG expert, Dr. Jerry Havens has stated on record at the An Bord Pleanála oral hearing in Tralee in January 2008²⁰:

“If an LNG C[ontainer] were to be attacked in the proximity of the shoreline, either while docked at the terminal or in passage in or out of the estuary, and cascading failures of the ship’s containments were to occur, it could result in a pool fire on water with magnitude beyond anything that has been experienced to my knowledge, and in my opinion could have the potential to put people in harm’s way to a distance of approximately three miles from the ship. I have testified repeatedly that I believe that the parties that live in areas where this threat could affect them deserve to have a rational, science-based determination made of the potential for such occurrences, no matter how unlikely they may be considered.”

17. September 11th 2008: Following our complaint of a possible breach of ethics by Councillor Brassil in his voting to rezone the land while a director of the company that owned the land he replied as follows to the “Kerryman” Newspaper²¹:

¹⁸ IRIS OIFIGIUIL, APRIL 18th, 2008 page 35 c.f.

<http://www.oireachtas.ie/documents/publications/RegofInterestsSeanad2007.pdf>

¹⁹ Houses of Oireachtas Commission, Annual Report 2007 – page 18 c.f.

<http://www.oireachtas.ie/documents/commission/reports/2007.pdf>

²⁰ <http://www.safetybeforelng.com/docs/DAY%203%20012308%20TRALEE%20LNG.PDF> page 49

²¹ <http://www.kerryman.ie/news/cllr-brassil-rejects-any-lng-wrongdoing-1473917.html> Kerryman”

Thursday September 11 2008

“At all times I have acted in a proper manner in any business with Kerry County Council,” he said. “I have always acted for the benefit of the people I serve and bringing 500 jobs and a €500 million investment to north Kerry is absolutely what I’m elected for.”

This statement from Councillor Brassil is an admission by the man himself that he was strongly motivated in bringing the LNG project to North Kerry.

His statement at the Kerry County council meeting discussing the Shannon LNG project on June 19th 2006²² that:

“In light of the major announcement made by Minister Micheal Martin regarding the development of the Shannon Development owned Ballylongford land bank that Kerry County Council put a team of people together to specifically deal with the infrastructure development and planning issues that will be associated with this project.”

proves that he made representations to the council in favour of the LNG project. The duty was to disclose the proposed LNG terminal, at the very least as a development “likely” to occur, to the consultants RPS undertaking the SEA screening report.

Furthermore, in the “Kerryman” Newspaper of September 17th 2008, Senator Ned O’Sullivan is quoted as stating:

“I was doubly obliged to assist the LNG project as both a member of Kerry County Council and as a member of the port company”.

In the “Irish Times”, County Manager Tom Curran is quoted as having told a meeting of the council on September 15th 2008 that:

*“As far as we are concerned there is no issue at stake and we will be reporting back accordingly”.*²³

We await your feedback.

Kind Regards,

Johnny McElligott

²² Minutes of June 19th 2006 Meeting of Kerry County Council -

<http://www.kerrycoco.ie/minutedocs/Item%202b%20Ordinary%20Minutes%20June%202006.pdf>

²³ <http://www.irishtimes.com/newspaper/ireland/2008/0917/1221599424149.html>

> Subject: RE: Complaint on possible conflict of interest in SEA of draft Kerry County Development Plan (previous related reference L18/07/2518)

> To: safetybeforelmg@hotmail.com

> From: david_ryan@ombudsman.gov.ie

> Date: Mon, 1 Sep 2008 15:07:41 +0100

>

>

>

>

>

>

> Johnny

>

> I cannot supply you with a copy .We are precluded by the terms of the Act
> from doing so.

>

> The examination of this complaint may also take some considerable time
> having regard to its complexity and the other complaints that have been
> received prior to its submission.

>

>

> Having said this, I will however let you know the details of the Council's
> reply to the greatest extent possible.

>

> A summary of its response is :

>

> It is unclear why the An Bord Pleanála inspector made his remarks as it
> was known by the general public that the lands were owned by Shannon
> Development and were to be developed for industrial purposes.

> Lands were identified for industrial development as far back as 1996;

> Variation was to zone the lands for industrial use not LNG

> The Scoping process did not recommend an SEA;

> All of the bodies that were required to be contacted as part of the
> process were contacted. Clare County Council was not one of these
> bodies.

> There is no prohibition on development on SAC's, SPA's NHA's. The zoned
> land is not in any of these areas.

> RPS have confirmed that they were unaware of the proposed LNG proposal
> at the time of the screening process.

> It is normal practice in assessing development proposals to inspect
> similar facilities.

>

>

> The lands in question had been designated for industrial development going
> back to 1996 The ownership of the land, the purpose of its purchase for
> industrial development and the history of previous planning applications in
> the area were widely known. The lands subject of the variation, part of
> which include the subsequent Shannon LNG application were zoned for
> industry. Notwithstanding the fact that there were already objectives in
> the plan relating to promoting major industrial development on these lands,
> Kerry County Council, in the knowledge of the possible Shannon LNG
> application, proceeded to formally zone the lands by variation of the Kerry
> County Development Plan 2003-2009. While this was not absolutely necessary
> in view of the existing development plan provisions, in the interest of
> transparency and to remove any ambiguity it was decided to propose the
> variation. In accordance with the statutory requirements of the Planning &
> Development Act 2000 this variation was advertised in the public papers and
> a copy of the variation including maps was made available for public
> inspection.

>

> All statutory procedures were followed in the process at varying the County

> Development Plan. There was no breach of legislation or procedure. It is
> clear that Kerry County Council were in no way remiss in their obligations
> regarding the zoning of these lands either statutorily, procedurally or in
> giving the public opportunity to comment. The proposed variation was
> adopted by the Elected Members having considered the managers report on the
> submissions received by the council.

>
> In relation to the SEA and the fact that the Shannon LNG project was not
> assessed as part of the screening process, it is worth noting that the area
> of lands zoned for industrial development was far in excess of the land
> required for the Shannon LNG proposal. It was a variation for industrial
> rezoning and not project specific for Shannon LNG. To have considered
> Shannon LNG as part of the screening process would have involved a
> different type of specific zoning e.g. zoned specifically for a gas storage
> and importation formed. There was no guarantee that any application would
> be lodged for this purpose and Kerry County Council was not about to
> undermine the industrial potential of the land for alternative uses.

>
> All statutory procedures and guidelines were followed by the consultants in
> the preparation of the SEA screening report and the decision not to prepare
> an SEA is correct. For the reasons stated, Kerry County Council
> deliberately did not want to zone lands specifically for a gas importation
> terminal. There was no breach of procedure or otherwise.

>
>
> Can you tell me if the case before the Commercial Court been heard yet ?

>
>
> Dave Ryan

>
>
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>
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>
> Kilcolgan Residents Association <safetybeforelng@hotmail.com> on 01/09/2008
> 13:46:19

>
> To: <david_ryan@ombudsman.gov.ie>
> cc:
> Subject: RE: Complaint on possible conflict of interest in SEA of draft
> Kerry County Development Plan (previous related reference
> L18/07/2518)

>
>
> Thank you David,

>
> I have sent the complaint to the Council already and will revert to you
> when I receive their reply.

>
> Could you forward me a copy of their letter of July 2008 in order that I
> can reply to what they now say?

>
> Kind Regards,
> Johnny

>
> Kilcolgan Residents Association
> <http://www.safetybeforelng.com>
> e-mail: safetybeforelng@hotmail.com
> Tel.: +353-87-2804474
> Address: Island View, Convent Street, Listowel, County Kerry, Ireland

>
> > Subject: Re: Complaint on possible conflict of interest in SEA of draft

> Kerry County Development Plan (previous related reference L18/07/2518)
> > To: safetybeforelmg@hotmail.com
> > From: david_ryan@ombudsman.gov.ie
> > Date: Mon, 1 Sep 2008 13:12:31 +0100
> >
> >
> >
> >
> >
> > Thank you for your email which I received this morning.
> >
> > Before this Office would be in a position to examine, what you correctly
> > indicate is a new complaint ,you would need to allow the Council an
> > opportunity to respond.
> >
> > You should therefore make the complaint directly to the Council. If you
> are
> > dissatisfied with the response you may refer the matter to this Office ,
> > for consideration.
> >
> >
> > I had incidentally received a detailed further response from the Council
> > during July 2008 in which it refutes the points made in your last letter.
> > After I have had an opportunity to consider this response in detail I
> will
> > be in touch.
> >
> >
> >
> > Dave
> >



Kilcolgan Residents Association
Protecting the Shannon Estuary

Kilcolgan Residents Association
Island View
Convent Street
Listowel
County Kerry

Telephone: +353-87-2804474
Email: safetybeforelng@hotmail.com
Web: www.safetybeforelng.com

29 August 2008

David Ryan, Investigator,
The Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2

By Email to: david_ryan@ombudsman.gov.ie
c.c. ombudsman@ombudsman.gov.ie

Re: Complaint on possible conflict of interest in SEA of draft Kerry County Development Plan
(previous related reference L18/07/2518)

Dear Mr. Ryan,

We have now a new complaint to add to our original complaint reference L18/07/2518.

We have serious concerns that there is now a conflict of interest in the SEA undertaken by Fehily, Timoney and Company for the draft Kerry County Development Plan 2009-2015 as detailed in our press release of Friday August 22nd 2008 which stated the following:

"KRA raises concerns on Draft County Development Plan.

The KRA is expressing reservations about the draft Kerry County Development Plan 2009-2015 on the discovery that the Strategic Environmental Assessment (SEA) of the draft plan is being undertaken by Cork-based Fehily Timoney and Company. The KRA is concerned about possible conflicts of interest due to the company's links with the transportation, construction and energy sectors.

The SEA is a systematic process for predicting, evaluating and mitigating, at the earliest appropriate stage, the environmental effects of a plan before it is finalised. It is effectively a seal of approval required by the council before the plan can be officially adopted.

Fehily Timoney and Co. have claimed that the development of the landbank - which includes Ireland's first proposed LNG terminal, a top-tier Seveso II major hazardous installation - will "permanently positively impact on improving people's quality of life based on high quality living environments, working and recreational facilities".

Fehily Timoney and Co. who signed off on the SEA owns 50% of Fehily Timoney Ramboll.

In 2004, the Ramboll group signed a 5-year contract with US operator Amerada Hess for the engineering of upgrades on the Syd Arne oil platform off the shores of Denmark²⁴.

Shannon LNG is a wholly owned Irish subsidiary of Hess LNG Limited, which is a joint venture of Hess Corporation and Poten & Partners.

Fehily Timoney and Company equally boasts on its website of a client base that includes numerous players in the Irish waste management, transportation, construction and energy sectors.²⁵

Gerard O'Sullivan of Fehily Timoney and Co is also a former senior executive engineer in the environment section of Kerry County Council²⁶.

The KRA is of the opinion that, at the very least, the consultants appointed by Kerry County Council in the evaluation of the county plan should be seen to be impartial and independent because the outcome of the plan will be the enrichment of certain developers in all these sectors. It is now calling for an immediate and urgent investigation into these concerns."

In addition to the details disclosed by us in the press release, it is our understanding that Gerard O'Sullivan, the director of Fehily Timoney and Co. who signed off on the SEA, also became a director of Fehily Timoney Ramboll in 2004²⁷. It is also our understanding that, in 2004, the Ramboll group signed a 5-year contract with US operator Amerada Hess (known as Hess Corporation since 2006) for the engineering of upgrades on the Syd Arne oil platform off the shores of Denmark²⁸. It is our understanding that Shannon LNG Director, Gordon Shearer, is a senior vice-president of Hess Corporation. It is our understanding that Soren Holm Johansen became a member of the executive board of the Ramboll Group²⁹ and we understand that he was also, at one time, a director of Fehily Timoney Ramboll, along with Gerard O'Sullivan. We stand open to correction on these details but urge that you obtain clarification on this information as, if proved correct, it would mean that the SEA cannot be guaranteed to be independent. A new SEA would therefore have to be undertaken by a more independent body and this is what we request.

Our view is that every effort is being made to rubberstamp, retrospectively a decision to build an LNG terminal without following any nationally or internationally recognised standards of integrated planning procedures and assessments. The very least that we can expect to have is an independent strategic environmental assessment. We await your feedback on our complaint as to whether or not there is a conflict of interest and on whether or not ethics guidelines were breached in the SEA process for the draft development plan. Please find attached our full submission to the draft County Development Plan for your information.

²⁴ <http://www.offshorecenter.dk/log/nyhedsbreve/On%20off%204-5.pdf> ,
http://www.ramboll.com/about%20us/financialinformation/~media/Files/RGR/Documents/Finance/AnnualReport/Annual_report_2004.ashx page 19

²⁵ <http://www.fehilytimoney.ie/>

²⁶ <http://ireland.iol.ie/kerrycco/staffing.html>

²⁷ Fehily Timoney Ramboll Company Number 389916

²⁸ <http://www.offshorecenter.dk/log/nyhedsbreve/On%20off%204-5.pdf> ,
http://www.ramboll.com/about%20us/financialinformation/~media/Files/RGR/Documents/Finance/AnnualReport/Annual_report_2004.ashx page 19

²⁹ <http://www.ramboll.com/search.aspx?q=soren%20holm%20johansen>

Yours sincerely,
Johnny McElligott



Kilcolgan Residents Association
Protecting the Shannon Estuary

Kilcolgan Residents Association
c/o Island View
Convent Street
Listowel
County Kerry
Ireland

Telephone: 068-23730
Mob: 087-2804474
Mob 086-6887402
Email: Kilcolgan@gmail.com

16 April 2008

Your Reference : L18/07/2518

By Email only to david_ryan@ombudsman.gov.ie

Dear Mr. Ryan,

Thank you for your letter dated April 3rd 2008 outlining Kerry County Council's response to our complaint.

Before you make your final decision please note that we consider the Council's response as one written with the express intention of attempting to mislead the Ombudsman's Office by the use of half truths and downright lies which we can prove incorrect with a corroborating paper trail.

Please find below our replies to Kerry County Council's answers to the questions you asked them highlighted below each answer below between the points "**KRA Response Start**" to "**KRA Response End**".

We await your feedback which we need for an appeal to be sent to An Bord Pleanala before April 28th, 2008.

Yours sincerely,
Johnny McElligott

Our Reference : L18/07/2518
3 April 2008

Mr John McElligott
Kilcolgan Residents Association
Island View
5 Convent Street
Listowel
Co Kerry

Dear Mr. McElligott

I refer to previous correspondence, and your recent telephone conversations with both myself and my colleague, Ms. Aimee Tallon, in connection with your complaint to this Office regarding Kerry County Council's decision not to carry out a Strategic Environmental Assessment (SEA) in relation to Variation No. 7 of the Kerry County Development Plan relating to the rezoning of 188.8 hectares of land at Ballylongford.

The Council's Report

Following receipt of your complaint this Office requested and received a report on the matter from Kerry County Council. The following is the Council's position on the matter. I have set out in bold type the questions the Council was requested to address:

1. The Background to this case:

The lands in question are located between Tarbert and Ballylongford in North Kerry. The site is bordered to the North by the Shannon Estuary and to the South by the coast road connecting Tarbert to Ballylongford. The area is rural in nature and the site is currently in pasture with some wet lands adjacent to the Shannon Estuary. The lands and adjacent lands have been owned for a number of years by Shannon Development/IDA. There is a considerable landbank to the East owned previously by Aran Energy on which planning permission was granted over 20 years ago for an oil refinery tank farm and marine terminal. The lands have long been identified as a strategic location for large scale industrial type development which would take advantage of the deep water available and the sheltered nature of the Estuary. The Kerry County Development Plans 1989 and 1996 identified the site and adjacent lands for industrial use. The current Kerry County Development Plan 2003-2009, which was adopted in November 2003, includes an objective EC02-6 to "identify lands in key strategic locations that are particularly suitable for development that may be required by specific sectors. Land in such locations will form part of a strategic reserve that

will be protected from inappropriate development that would prejudice its long term development for these uses".

KRA RESPONSE Start

The **full** stated purpose of the variation was as follows:

“The purpose of the variation is to facilitate consideration of suitable development of these lands in accordance with the provisions of section 5.2.9 of the Kerry County Development Plan 2003-2009 which states: ‘lands have been identified at Ballylongford/Tarbert as suitable for development as a premier deep-water port and for major industrial development and employment creation’. The adoption of this variation gives effect to objective ECO 5-5 of the Kerry County Development Plan 2003-2009 which states: ‘It is an objective of Kerry County Council to identify lands in key strategic locations that are particularly suitable for development that may be required by specific sectors. Land in such locations will form part of a strategic reserve that will be protected from inappropriate development that would prejudice its long-term development for these uses.’”³⁰

The An Bord Pleanála’s Inspector’s Report on the proposed LNG terminal at the site granted permission through the new fast track planning laws of the Strategic Infrastructure Act 2006 clearly stated:

Overall, it is difficult to avoid the suspicion, as in the case of many other site selection processes that the entire process has been retrospective, rather than having been carried out from first principles.³¹

KRA RESPONSE End

In early 2006, Kerry County Council received preliminary enquiries from Shannon LNG regarding the possibility of locating a Liquefied Natural Gas (LNG) import terminal and re-gasification plant on part of these lands. Formal pre-planning discussions commenced in June, 2006 and continued until the enactment of the Planning and Development (Strategic Infrastructure) Act 2006 when it became apparent that this application would probably come within the remit of that Act. The variation of the County Development Plan must be considered in this context. However, at the time of the variation no application for such a development had been lodged. In proposing the variation Kerry County Council had to be cognisant of the possibility that the project might not proceed to application stage and the proposed variation for industrial zoning could not therefore be assessed on a project specific basis.

KRA RESPONSE Start

It was known at the time of the report that Shannon LNG had an option to buy the lands subject to planning permission for the LNG terminal with the serious

³⁰ County Manager’s report on proposed variation No 7 to the Kerry County Development Plan 2003 -2009 (dated March 8th 2007) submitted to the Ombudsman’s office on November 19th 2007

³¹ An Bord Pleanála Inspector’s Report into the Liquefied Natural Gas (LNG) regasification terminal on the southern shore of the Shannon Estuary in the townlands of Ralappane & Kilcolgan Lower, County Kerry Reference PA0002 c.f. <http://www.pleanala.ie/casenum/PA0002.htm>

consequential effects on the environment as detailed above. Indeed, An Bord Pleanála formally wrote to the County Manager on February 7th, 2007 notifying them of Shannon LNG's request for pre-application consultations under the planning and Development (Strategic Infrastructure) Act 2006 for an LNG terminal on the said site.

This was not a preliminary, speculative request for information but a formal application to bypass Kerry County Council and apply directly for permission from An Bord Pleanála through the new Strategic Infrastructure Act 2006 reference PC0002.³² Therefore it is incorrect for Kerry County Council to state that "at the time of the variation no application for such a development had been lodged" because the statutory body An Bord Pleanála had informed the Council on February 7th, 2007 that formal obligatory consultations had become for an LNG terminal on the site. The County Manager's Report³³ made its conclusions following the SEA screening report on March 8th 2007, which was one month after being informed by An Bord Pleanála that a formal application had been lodged for an LNG terminal on February 7th, 2007.

The Board Pleanála's Inspector's report on the LNG applications outlined this statutory obligation:

"Pre-application discussions were held with the Board under section 37B of the Act of 2000, as amended by the Act of 2006. On 11th September 2007, the Board served notice under section 37B(4)(a) that it was of the opinion that the proposed development would fall within the scope of paragraphs 37A(2)(a) and (c) of the Act, i.e. it would be of strategic economic or social importance to the State or the region in which it would be situate and it would have a significant affect on the area of more than one planning authority." ³⁴

KRA RESPONSE End

2. The Councils comments on Mr. McElligott's claim that the screening process was inadequate as it did not refer to the option of Shannon LNG to purchase the site subject to planning permission.

The Council is satisfied that the screening process undertaken accords in full with the criteria set out in Schedule 2(a) of the Planning & Development (Strategic Environmental Assessment) Regulations (S.I No. 436 of 2004). This scoping exercise was carried out by independent consultants RPS Planning and Environmental Ltd. on behalf of the Council. The Screening Report concluded that "the policy and objectives contained within

³² An Bord Pleanála case reference PL08. PC0002 Pre-application consultation lodged 06/07/2007 and deemed Strategic Infrastructure Development on 07/09/2007 c.f. <http://www.pleanala.ie/casenum/PC0002.htm>

³³ Kerry County Manager's Report on Variation no. 7 to the Kerry County Development 2003-2009 of March 8th 2007

³⁴ An Bord Pleanála Inspector's Report into the Liquefied Natural Gas (LNG) regasification terminal on the southern shore of the Shannon Estuary in the townlands of Ralappane & Kilcolgan Lower, County Kerry Reference PA0002 c.f. <http://www.pleanala.ie/casenum/PA0002.htm>

the Kerry County Development Plan 2003-2009 will ensure the appropriate assessment of any proposed developments on the lands so as to prevent any adverse effect. The nature of the proposed variation is considered to be

relatively minor. Therefore, it does not appear that there is a need for a Strategic Environmental Assessment (SEA) in this instance as the proposed variation is unlikely to result in development which would have significant effect on the environment".

This assessment must be viewed in the context of the lands already being identified in the County Development Plan 2003-2009 for major industrial development.

KRA RESPONSE Start

This response by Kerry County Council does not address the central point here that the screening report did not consider the Shannon LNG option to purchase the land subject to planning permission for an LNG terminal which Shannon LNG admitted would be an establishment to which SEVESO regulations would apply³⁵ in May 2006 – a date at least six months prior to the screening report being undertaken in November 2006.

KRA RESPONSE End

3. The Council's comments on Mr. McElligott's claim that the developments proposed for this site, a weather station and petroleum storage installation will have a significant effect on the environment. He states that 10 hectares of the development proposed for the estuary itself is partially in a SAC area.

The comments of Mr. McElligott, that the proposed development of this site will have significant effect on the environment, is a matter to be considered in the context of any planning application. In this regard there is an application for consent currently before An Bord Pleanála under the Planning & Development (Strategic Infrastructure) Act, 2006 which has been the subject of an eight day oral hearing which commenced on 21 January 2008 and concluded on 30 January, 2008. This application was accompanied by an Environmental Impact Statement (EIS) which has assessed the environmental effects of the proposed development. In addition no portion of the application proposed is located within an area designated as a Special Area of Conservation (SAC). Neither was any land located in the SAC zoned industrial by the variation (No. 7).

KRA RESPONSE Start

An EIS is not an SEA. An SEA is obliged to be undertaken by the council when a variation to the development plan is likely to have an effect on the environment. An SEA is required for a variation to the development plan under Statutory Instrument No

³⁵ Shannon LNG booklet May 2006 page 7 submitted to the Ombudsman's Office on November 19th 2007 c.f. <http://www.shannonlngplanning.ie/files/Newsletters/Issue1.pdf>

436 of 2004 Article 7 section 13K and article 12 schedule 2A of the same Statutory Instrument³⁶ where there will be a significant effect on the environment.

The EIS was carried out by the applicant but should not be considered as a replacement for an SEA.

10 hectares of the proposed LNG development are for building 2 jetties and completing dredging works and ALL of these 10 hectares are on SAC waters. In addition the site surrounds and is surrounded by SAC, NHA and SPA land and water subject to Irish and European Environmental protection legislation. This is seen clearly on the map of the Environmental Designated Areas in the Shannon LNG EIS volume 1 page 2.³⁷



KRA RESPONSE End

4. The Council's comments on Mr. McElligott's complaint that the Council failed to take account of the developments proposed for this site when carrying out the SEA screening process.

The Planning Authority does not accept that the Council failed to take into account the development proposed for the site in carrying out the SEA

³⁶ C.f. <http://www.irishstatutebook.ie/2004/en/si/0436.html#article12> Planning and Development (Strategic Environmental Assessment) Regulations 2004

³⁷ Shannon LNG Terminal EIS volume 1 page 2 submitted to the Ombudsman's Office on November 19th 2007 c.f.

http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_1_of_4_Issue1.pdf

screening process. As indicated earlier these lands were always intended for industrial development.

KRA RESPONSE Start

The proposed LNG terminal was not even mentioned in the Screening Report as a development likely to happen, even though it was in the public domain for 6 months and the lands had been purchased by Shannon LNG subject to planning permission for an LNG terminal. A Seveso site is by its very definition a

dangerous site subject to the Seveso Directive. This was deliberately omitted because it would have required an SEA to be undertaken.

The lands were not zoned industrial at the time of the variation in March 2007 – rather they were zoned ‘Rural General’ and ‘Secondary Special Amenity’,³⁸
KRA RESPONSE End

5. The Council's comments on Mr. McElligott's claim that the SEA was required in this case because the waters of the lower Shannon are in a candidate SAC, and protected under the EU Habitats Directive.

Following the preparation of the screening report it was forwarded to the Department of the Environment Heritage and Local Government, the Department of Communication, Marine and Natural Resources and the Environmental Protection Agency for their observation. The observations received were further considered by our consultants. Following their further consideration the Planning Authority determined that a Strategic Environmental Assessment was not necessary for the proposed variation.

KRA RESPONSE Start

No copies of these replies have been submitted to the Ombudsman's Office. The EPA³⁹ and Clare County Council⁴⁰ could not confirm receipt of the SEA screening Report.

KRA RESPONSE End

Furthermore in this regard the Planning Authority was satisfied that any significant environmental issue arising from any development on the lands would be resolved through Environmental Impact Assessment Legislation as an EIS would be required for any project or development which exceeds the specified threshold under Part 10 of the Planning and Development Act 2000, and Schedule 5 Part 2.12 of the Planning & Development Regulations 2001.

KRA RESPONSE Start

Again, a future possible EIS does not negate the need for an SEA as they are 2 different processes with different rationale.

KRA RESPONSE End

Accordingly the Planning Authority decided to proceed with the proposed Variation.

³⁸ Kerry County Manager's Report on Variation no. 7 to the Kerry County Development 2003-2009 of March 8th 2007 Page 1, submitted to the Ombudsman's Office on November 19th 2007

³⁹ Email communication with Kerry County Council submitted to the Ombudsman's Office on November 19th 2007 as attachment 8

⁴⁰ Email confirmation by John Bradley of Clare County Council forwarded to the Ombudsman's office on November 21st 2007

6. The Council's comments on Mr. McElligott's complaint that the screening report did not take into account the concerns raised by Clare

County Council about the impact that the construction of a deep water harbour would have on both the visual and the ecological amenities of the area and potentially on the Lower Shannon Estuarine Environment.

The concerns of Clare County Council were raised in the context of the proposed variation to the County Development Plan and not the Screening Report which was completed prior to the publication to the variation as required by legislation.

KRA RESPONSE Start

Again, Clare County Council⁴¹ could not confirm receipt of the SEA screening Report and the concerns raised by Clare County Council in its objection to the variation⁴² highlighted the fact that the variation would have serious impacts on another council area when it stated:

“the proposed rezoning is likely to have a significant impact on the future development of the region, and will have a direct impact on the planned objectives for the Mid West Regional guidelines for the Shannon Estuary and in particular the Planning, Economic and Service Infrastructural development objectives for zone 5 of the plan. Any industrial development including the construction of a deepwater harbour will have a major impact on both the visual and ecological amenities of the area, and potentially on the Lower Shannon Estuarine Environment, including the foreshore of County Clare. Clare County Council would like an appraisal of any SEA investigation which may have been undertaken in respect of the proposed variation”.

KRA RESPONSE End

7. Mr. McElligott maintains that the ecological sensitivity of this area was recognised in the Kerry County Development Plan by declaring Ballylongford Bay and Tarbert Bay areas of ecological importance but that this was not taken into account in the screening process and I would appreciate your comments on this matter.

All matters, including the ecological sensitivity of the area were taken into account.

KRA RESPONSE Start

As the area was already recognised in the County Development Plan as being ecologically sensitive then an SEA had automatically to be undertaken⁴³

KRA RESPONSE End

8. Mr. McElligott also maintains that the Department of the Environment and Local Government guidelines in relation to SEA screening have not been adhered to as the site in question is a Seveso 2 site surrounded by SAC and

⁴¹ Email confirmation by John Bradley of Clare County Council forwarded to the Ombudsman's office on November 21st 2007

⁴² Kerry County Manager's Report on Variation no. 7 to the Kerry County Development 2003-2009 of March 8th 2007 Page 1. submitted to the Ombudsman's Office on November 19th 2007

⁴³ <http://www.irishstatutebook.ie/2004/en/si/0436.html#article12> Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I No 436 of 2004)

NHA areas and I would be obliged for your comments in relation to this matter.

The Planning Authority is satisfied that the Department of the Environment

and Local Government Guidelines in relation to SEA screening was fully complied with. The Seveso 2 regulations refer to development taking place and not to the lands. As no application was lodged at the time of the variation the question of a Seveso 2 site did not arise (see response to 1 above).

KRA RESPONSE Start

The criteria for determining whether a variation to a development plan requires an SEA is clearly defined in Schedule 2A of the Planning and Development (Strategic Environmental Assessment) Regulations 2004⁴⁴. Seveso sites by their definition are dangerous and subject to the SEVESO Major Accidents Directive and as such fall under Schedule 2A (2) (the risks to human health or the environment (e.g. due to accidents)). The full Schedule 2A reads as follows and underlines how an LNG terminal will have a significant effect on the environment and therefore require an SEA:

“SCHEDULE 2A

Criteria for determining whether a plan is likely to have significant effects on the environment

Articles 13A, 13K and 14A

- 1. The characteristics of the plan having regard, in particular, to:**
 - the degree to which the plan sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,**
 - the degree to which the plan influences other plans, including those in a hierarchy,**
 - the relevance of the plan for the integration of environmental considerations in particular with a view to promoting sustainable development,**
 - environmental problems relevant to the plan,**
 - the relevance of the plan for the implementation of European Union legislation on the environment (e.g. plans linked to waste-management or water protection).**
- 2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:**

⁴⁴ C.f. <http://www.irishstatutebook.ie/2004/en/si/0436.html#article12> Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I No 436 of 2004)

- the probability, duration, frequency and reversibility of the effects,
- the cumulative nature of the effects,
- the transboundary nature of the effects,
- the risks to human health or the environment (e.g. due to accidents),
- the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected).
- the value and vulnerability of the area likely to be affected due to:
 - (a) special natural characteristics or cultural heritage,
 - (b) exceeded environmental quality standards or limit values,
 - (c) intensive land-use,
- the effects on areas or landscapes which have a recognised national, European Union or international protection status.

KRA RESPONSE End

9. Mr. McElligott has queried if the consultants employed by the Council to carry out the screening report were fully appraised of Shannon LNG's proposals for the site. I would be obliged for your comments on this matter.

The consultants employed by the Council to carry out the screening report were aware that the proposed variation was to provide for industrial development on these lands in the context of the Kerry County Development Plan and the fact that the lands in question have been identified for major marine based industrial development for almost 50 years. Kerry County Council is unaware as to whether or not the consultants were aware of the LNG proposal as it was in the public arena at that time.

KRA RESPONSE Start

The Ombudsman's Office has the power to inquire directly of the Consultants if they were aware of the proposed LNG terminal. A "deepwater port facility" is not a Seveso II top tier development and therefore would have different impacts on the environment. The land was being rezoned specifically for the LNG plant - land required by the LNG terminal on which an option to purchase subject to planning permission existed.

KRA RESPONSE End

10. Detail the reasons why the Council employed the services of a consultant to carry out the SEA screening process in such a case.

The Council employed the services of consultants to carry out the SEA screening process as it did not have the necessary resources available at that time to carry out the work.

KRA RESPONSE Start

It would be helpful if the Ombudsman requested all internal emails and memos from the council on this matter and all external communications with the consultants to determine the criteria and issues discussed to avoid an SEA being undertaken.

KRA RESPONSE End

11. Confirm that a copy of the SEA Screening Report was sent to all relevant environmental authorities which it consulted.

The Council confirms that a copy of the SEA screening report was sent to all relevant Environmental Authorities.

KRA RESPONSE Start

Again, no copies of these communications with all the relevant environmental authorities have been submitted to the Ombudsman's Office and the Ombudsman's office has the power to request this information.

The EPA⁴⁵ and Clare County Council⁴⁶ could not confirm receipt of the SEA screening Report.

KRA RESPONSE End

12. The Council's comments on Mr. McElligott's complaint in respect of the information which was requested concerning the Council's visit to the LNG terminal in Boston.

The information sought by Mr. McElligott in relation to the Council visit to an LNG terminal in Boston is the subject of an Freedom of Information (FOI) request at present and is being dealt with.

KRA RESPONSE Start

Again, no copies of these communications with all the relevant environmental authorities have been submitted to the Ombudsman's Office and the Ombudsman's office has the power to request this information.

The cost of the trip amounted to 5,786.00 Euros (4160.00 Euros for flights and 1,626 Euros for accommodation).

⁴⁵ Email communication with Kerry County Council submitted to the Ombudsman's Office on November 19th 2007 as attachment 8

⁴⁶ Email confirmation by John Bradley of Clare County Council forwarded to the Ombudsman's office on November 21st 2007

They went on Tuesday the 19th June 2007 and 3 of them returned on 23rd of June and the last one on 24th June. They also claimed 3,092.05 Euros in expenses. 8,878.05 was the total cost of the trip. This proves that the LNG terminal development was being taken seriously by the council and that all rezoning was retrospective to accommodate the planning application by Shannon LNG.
KRA RESPONSE End

13. Other information which may assist the Ombudsman in the examination of this complaint.

The Planning Authority would like to draw the Ombudsman's attention to the provisions of Section 50 of the Planning & Development Act 2000, as amended, which provides that "any decision made or other Act done" by, inter alia, a Planning Authority in the performance of a function under the 2000 Act, may only be challenged by application for leave to apply for judicial review within an eight week period of the decision or act.

Consequently, as the decision of Kerry County Council to adopt Variation No. 7 to the Development Plan was a decision made or act done in performance of a function under Section 13 of the 2000 Act, it could only have been challenged within an eight week period commencing on the day of adoption of the Variation No. 7, in March, 2007. As no such challenge was instituted within that period, it is submitted that Variation No. 7 is a valid variation to the Kerry County Development Plan.

KRA RESPONSE Start

The Ballylongford Screening report⁴⁷ makes no mention of Shannon LNG having an option to purchase land on the site subject to planning permission for an LNG terminal, even though this was known since at least May 2006 and that this was already discussed in the Kerry County Council meeting of 19 June 2006⁴⁸ as follows:

"20. Establishment of a committee to deal with infrastructural development and Planning issues relating to the Ballylongford Land Bank Pursuant to notice duly given Cllr. J. Brassil proposed:-

"In light of the major announcement made by Minister Micheal Martin regarding the development of the Shannon Development owned Ballylongford land bank that Kerry County Council put a team of people together to specifically deal with the infrastructure development and planning issues that will be associated with this project."

Mr. C. O'Sullivan, SEO Corporate Services read the following report:-

The Ministers announcement in relation to the proposals for Ballylongford is to be welcomed. Preplanning discussion with Shannon LNG will shortly commence. The necessary planning and infrastructure teams will be put in place as discussions develop more fully the particular project proposal and the needs of the Ballylongford Land Bank

⁴⁷ Strategic Environmental Assessment Screening Report – Kerry County Council Development Plan 2003-2009 Proposed Variation – November 2006 submitted to the Ombudsman's office on November 19th 2007.

⁴⁸ Minutes of June 19th 2006 Meeting of Kerry County Council -

<http://www.kerrycoco.ie/minutedocs/Item%202b%20Ordinary%20Minutes%20June%202006.pdf>

generally. Project progress will be overseen by Sub Committee of Senior Management Team. The situation will be kept under review as the project progresses.

Cllr. J. Brassil welcomed the report and said that this has the potential to be a huge project for North Kerry and he called on the Executive to give it every support.

Cllr. L. Purtill welcomed the recent announcement for the development of part of Ballylongford Land Bank and supported **Cllr. Brassil's** motion.“

Conclusion

We are not asking here if we can challenge the variation to the county development plan. We are complaining that the correct procedures were not

followed in that no SEA was undertaken as was required pursuant to Article 13k Planning And Development (Strategic Environmental Assessment) Regulations 2004.

We cannot challenge a valid variation but our assertion is that the variation was not valid in the first place due to a serious and deliberate breach of procedure at Kerry County Council to its benefit and to the detriment of the whole of North Kerry.

We politely request that the Ombudsman's Office determines the complete truth behind this variation and rezoning and suggest that it uses its full powers of investigation and seizure if it serious doubts remain.

KRA RESPONSE End

As mentioned in our telephone conversation it may be some time before I have an opportunity to consider, in detail, the material that you have submitted in relation to the complaint. My preliminary assessment of the complaint would however be that the Council has acted in accordance with the statutory requirements and that the project will be subject to consideration at An Bord Pleanála. This Office's role, as mentioned is confined to examining the administrative actions of the bodies concerned. In this context, while you are very welcome to comment on the details of the Council's reply the final decision in relation to this project will, as I realise you are aware, be taken in another forum.

Yours sincerely

David Ryan
Investigator

Our Reference : L18/07/2518
3 April 2008

Mr John McElligott
Kilcolgan Residents Association
Island View
5 Convent Street
Listowel
Co Kerry

Dear Mr. McElligott

I refer to previous correspondence, and your recent telephone conversations with both myself and my colleague, Ms. Aimee Tallon, in connection with your complaint to this Office regarding Kerry County Council's decision not to carry out a Strategic Environmental Assessment (SEA) in relation to Variation No. 7 of the Kerry County Development Plan relating to the rezoning of 188.8 hectares of land at Ballylongford.

The Council's Report

Following receipt of your complaint this Office requested and received a report on the matter from Kerry County Council. The following is the Council's position on the matter. I have set out in bold type the questions the Council was requested to address:

1. The Background to this case:

The lands in question are located between Tarbert and Ballylongford in North Kerry. The site is bordered to the North by the Shannon Estuary and to the South by the coast road connecting Tarbert to Ballylongford. The area is rural in nature and the site is currently in pasture with some wet lands adjacent to the Shannon Estuary. The lands and adjacent lands have been owned for a number of years by Shannon Development/IDA. There is a considerable landbank to the East owned previously by Aran Energy on which planning permission was granted over 20 years ago for an oil refinery tank farm and marine terminal. The lands have long been identified as a strategic location for large scale industrial type development which would take advantage of the deep water available and the sheltered nature of the Estuary. The Kerry County Development Plans 1989 and 1996 identified the site and adjacent lands for industrial use. The current Kerry County Development Plan 2003-2009, which was adopted in November 2003, includes an objective EC02-6 to "identify lands in key strategic locations that are particularly suitable for development that may be required by specific sectors. Land in such locations will form part of a strategic reserve that

will be protected from inappropriate development that would prejudice its long term development for these uses".

In early 2006, Kerry County Council received preliminary enquiries from Shannon LNG regarding the possibility of locating a Liquefied Natural Gas (LNG) import terminal and re-gasification plant on part of these lands. Formal pre-planning discussions commenced in June, 2006 and continued until the enactment of the Planning and Development (Strategic Infrastructure) Act 2006 when it became apparent that this application would probably come within the remit of that Act. The variation of the County Development Plan must be considered in this context. However, at the time of the variation no application for such a development had been lodged. In proposing the variation Kerry County Council had to be cognisant of the possibility that the project might not proceed to application stage and the proposed variation for industrial zoning could not therefore be assessed on a project specific basis.

2. The Council's comments on Mr. McElligott's claim that the screening process was inadequate as it did not refer to the option of Shannon LNG to purchase the site subject to planning permission.

The Council is satisfied that the screening process undertaken accords in full with the criteria set out in Schedule 2(a) of the Planning & Development (Strategic Environmental Assessment) Regulations (S.I. No. 436 of 2004). This scoping exercise was carried out by independent consultants RPS Planning and Environmental Ltd. on behalf of the Council. The Screening Report concluded that "the policy and objectives contained within the Kerry County Development Plan 2003-2009 will ensure the appropriate assessment of any proposed developments on the lands so as to prevent any adverse effect. The nature of the proposed variation is considered to be relatively minor. Therefore, it does not appear that there is a need for a Strategic Environmental Assessment (SEA) in this instance as the proposed variation is unlikely to result in development which would have significant effect on the environment".

This assessment must be viewed in the context of the lands already being identified in the County Development Plan 2003-2009 for major industrial development.

3. The Council's comments on Mr. McElligott's claim that the developments proposed for this site, a weather station and petroleum storage installation will have a significant effect on the environment. He states that 10 hectares of the development proposed for the estuary itself is partially in a SAC area.

The comments of Mr. McElligott, that the proposed development of this site will have significant effect on the environment, is a matter to be considered in the context of any planning application. In this regard there is an application for consent currently before An Bord Pleanála under the Planning & Development (Strategic Infrastructure) Act, 2006 which has

been the subject of an eight day oral hearing which commenced on 21 January 2008 and concluded on 30 January, 2008. This application was accompanied by an Environmental Impact Statement (EIS) which has assessed the environmental effects of the proposed development. In addition no portion of the application proposed is located within an area designated as a Special Area of Conservation (SAC). Neither was any land located in the SAC zoned industrial by the variation (No. 7).

4. The Council's comments on Mr. McElligott's complaint that the Council failed to take account of the developments proposed for this site when carrying out the SEA screening process.

The Planning Authority does not accept that the Council failed to take into account the development proposed for the site in carrying out the SEA screening process. As indicated earlier these lands were always intended for industrial development.

5. The Council's comments on Mr. McElligott's claim that the SEA was required in this case because the waters of the lower Shannon are in a candidate SAC, and protected under the EU Habitats Directive.

Following the preparation of the screening report it was forwarded to the Department of the Environment Heritage and Local Government, the Department of Communication, Marine and Natural Resources and the Environmental Protection Agency for their observation. The observations received were further considered by our consultants. Following their further consideration the Planning Authority determined that a Strategic Environmental Assessment was not necessary for the proposed variation.

Furthermore in this regard the Planning Authority was satisfied that any significant environmental issue arising from any development on the lands would be resolved through Environmental Impact Assessment Legislation as an EIS would be required for any project or development which exceeds the specified threshold under Part 10 of the Planning and Development Act 2000, and Schedule 5 Part 2.12 of the Planning & Development Regulations 2001.

Accordingly the Planning Authority decided to proceed with the proposed Variation.

6. The Council's comments on Mr. McElligott's complaint that the screening report did not take into account the concerns raised by Clare County Council about the impact that the construction of a deep water harbour would have on both the visual and the ecological amenities of the area and potentially on the Lower Shannon Estuarine Environment.

The concerns of Clare County Council were raised in the context of the proposed variation to the County Development Plan and not the Screening

Report which was completed prior to the publication to the variation as required by legislation.

7. Mr. McElligott maintains that the ecological sensitivity of this area was recognised in the Kerry County Development Plan by declaring Ballylongford Bay and Tarbert Bay areas of ecological importance but that this was not taken into account in the screening process and I would appreciate your comments on this matter.

All matters, including the ecological sensitivity of the area were taken into account.

8. Mr. McElligott also maintains that the Department of the Environment and Local Government guidelines in relation to SEA screening have not been adhered to as the site in question is a Seveso 2 site surrounded by SAC and NHA areas and I would be obliged for your comments in relation to this matter.

The Planning Authority is satisfied that the Department of the Environment and Local Government Guidelines in relation to SEA screening was fully complied with. The Seveso 2 regulations refer to development taking place and not to the lands. As no application was lodged at the time of the variation the question of a Seveso 2 site did not arise (see response to 1 above).

9. Mr. McElligott has queried if the consultants employed by the Council to carry out the screening report were fully appraised of Shannon LNG's proposals for the site. I would be obliged for your comments on this matter.

The consultants employed by the Council to carry out the screening report were aware that the proposed variation was to provide for industrial development on these lands in the context of the Kerry County Development Plan and the fact that the lands in question have been identified for major marine based industrial development for almost 50 years. Kerry County Council is unaware as to whether or not the consultants were aware of the LNG proposal as it was in the public arena at that time.

10. Detail the reasons why the Council employed the services of a consultant to carry out the SEA screening process in such a case.

The Council employed the services of consultants to carry out the SEA screening process as it did not have the necessary resources available at that time to carry out the work.

11. Confirm that a copy of the SEA Screening Report was sent to all relevant environmental authorities which it consulted.

The Council confirms that a copy of the SEA screening report was sent to all relevant Environmental Authorities.

12. The Council's comments on Mr. McElligott's complaint in respect of the information which was requested concerning the Council's visit to the LNG terminal in Boston.

The information sought by Mr. McElligott in relation to the Council visit to an LNG terminal in Boston is the subject of an Freedom of Information (FOI) request at present and is being dealt with.

13. Other information which may assist the Ombudsman in the examination of this complaint.

The Planning Authority would like to draw the Ombudsman's attention to the provisions of Section 50 of the Planning & Development Act 2000, as amended, which provides that "any decision made or other Act done" by, inter alia, a Planning Authority in the performance of a function under the 2000 Act, may only be challenged by application for leave to apply for judicial review within an eight week period of the decision or act.

Consequently, as the decision of Kerry County Council to adopt Variation No. 7 to the Development Plan was a decision made or act done in performance of a function under Section 13 of the 2000 Act, it could only have been challenged within an eight week period commencing on the day of adoption of the Variation No. 7, in March, 2007. As no such challenge was instituted within that period, it is submitted that Variation No. 7 is a valid variation to the Kerry County Development Plan.

As mentioned in our telephone conversation it may be some time before I have an opportunity to consider, in detail, the material that you have submitted in relation to the complaint. My preliminary assessment of the complaint would however be that the Council has acted in accordance with the statutory requirements and that the project will be subject to consideration at An Bord Pleanála. This Office's role, as mentioned is confined to examining the administrative actions of the bodies concerned. In this context, while you are very welcome to comment on the details of the Council's reply the final decision in relation to this project will, as I realise you are aware, be taken in another forum.

Yours sincerely

David Ryan
Investigator

From: McElligott, John
Sent: 14 December 2007 15:50
To: 'aimee_tallon@ombudsman.gov.ie'
Subject: Complaint concerning refusal to carry out an SEA on variation No 7 of 2007:

Kilcolgan Residents Association
c/o Johnny McElligott
Island View,
5 Convent Street,
Listowel,
County Kerry
safetybeforelng@hotmail.com
Tel: (087) 2804474

13th December 2007

Aimee Tallon,
The Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2
Sent via email only to:
aimee_tallon@ombudsman.gov.ie

Dear Ms. Tallon,

I understand from my conversation with you during the week that you are the person from the Ombudsman's Office dealing with our complaint of a breach of procedure by Kerry County Council in its refusal to carry out an SEA on variation No. 7 of 2007.

We are of the opinion, as already stated, that this refusal was motivated by the aim of allowing Shannon LNG proceed with the new fast-track planning application now before An Bord Pleanala, to the detriment of the environment and safety of nearby residents.

Shannon LNG had talks with the council before the SEA screening report was undertaken by "outside consultants".

Further new information has come to light which we believe relevant to this complaint.

4 Council employees went on a trip to Boston to visit an LNG there (the Everett LNG terminal we believe).

The LNG trip to Boston was paid for by the council (see mails below confirming this from Kerry County Council) but no formal report was written up.

We find it amazing that there is such a lack of accountability from Kerry County Council on a trip that has such huge implications for the residents adjacent to the landbank.

We are seriously concerned that no report was done on the Boston trip, considering it concerns the construction of a top-tier Seveso 2 hazardous chemicals installation on the landbank in Tarbert.

We feel that the answers to the questions we asked were highly flippant as they did not deal with the fact that planning permission in Boston was more lax 40 years ago. Neither did the account from the trip cover significant areas such as the environmental impacts, the safety issues and the high cost of security force surveillance of each LNG tanker delivery into this LNG terminal at Everett. LNG tankers have to go past downtown Boston to reach the terminal, making it one of the most dangerous LNG terminals on the planet due to the consequences of a major accident there. A quick google search on the internet of the Everett terminal reveals many of these issues in a couple of minutes of basic research so these issues should have been raised on any fact-finding mission to Boston if the trip was to have any credibility.

As the trip of the 4 officials was paid for by the council (and therefore by the tax payers) this raises serious questions of accountability. Their findings were used as the basis of their informed opinion on the proposed LNG terminal proposed in Tarbert and we question their motivation in not even writing up a report on it. When did they go on the trip? How long did they stay there? Who organized the trip to the lng terminal? Did they go on other official council business to Boston? Is it normal for 4 Council members to go on official council trips to Boston and not even write a report? What was their brief before going on the trip? Who else went with them? We need to know if Shannon LNG had any input into this trip and the visit to the Everett LNG terminal. Council employees must act in a transparent manner at all times and must not be compromised in any way in planning applications and we require urgent answers to our request for more detailed information on this "trip to Boston".

These questions are very serious as the council is already the subject of an official complaint to the Ombudsman's Office over its refusal to undertake a Strategic Environmental Assessment when the land was being rezoned from Rural General to Industrial in March of this year. The Kilcolgan Residents Association feels that shortcuts were taken to speed up the planning application for a dangerous LNG terminal, putting their lives and environment in danger in the interests of fast-track planning. We also believe that the groundwork for refusing to undertake an SEA was laid in this trip to Boston and therefore we need full disclosure of all the facts surrounding this visit.

Yours sincerely,
Johnny McElligott

Johnny McElligott

Kilcolgan Residents Association

<http://www.safetybeforelng.com>

e-mail: John.McElligott@cw.com

Tel.: +353-87-2804474

Address: Island View, Convent Street, Listowel, County Kerry, Ireland.

Kind Regards,
Johnny

From: Lorainne Sheehan [mailto:lsheehan@kerrycoco.ie]
Sent: 11 December 2007 12:44
To: catrionagriffin068@eircom.net
Subject: RE: Shannon LNG - File

Catriona, I can confirm that all expenses for the Council Staff were paid for by Kerry County Council.

Regards
Lorraine Sheehan
Planning Policy

-----Original Message-----
From: catrionagriffin068@eircom.net
[mailto:catrionagriffin068@eircom.net]
Sent: 07 December 2007 11:35
To: Lorainne Sheehan
Subject: RE: Shannon LNG - File

Hi Lorraine,

I have been trying to ring you this morning but i was told that you were out of the office.I emailed you on Wednesday asking about who funded the trip to Boston.Would you let me know as soon as possible,please.

Thanks
Catriona Griffin

From: Lorainne Sheehan [mailto:lsheehan@kerrycoco.ie]
Sent: 05 December 2007 10:26
To: catrionagriffin068@eircom.net
Subject: RE: Shannon LNG - File

Hi Catriona

There is no formal report in relation to this trip. The staff from Kerry County Council, visited the site, inspected the layout of the development and discussed the operation of the facility in detail with the plant operator.

Regards
Lorraine

-----Original Message-----
From: catrionagriffin068@eircom.net
[mailto:catrionagriffin068@eircom.net]
Sent: 04 December 2007 15:33
To: Lorainne Sheehan
Subject: Re: Shannon LNG - File

Hi Lorraine,

I emailed you last week about a report done by Kerry County Council on a trip to Boston to view an LNG terminal. You sent me the attached reply. I emailed you a second time as I said that I wanted to see the ACTUAL report as I am faced with having an LNG terminal 800 meters from my house. I look forward to hearing from you.

Catriona Griffin

From: Lorainne Sheehan [mailto:lsheehan@kerrycoco.ie]
Sent: 30 November 2007 15:40
To: catrionagriffin068@eircom.net
Subject: Re: Shannon LNG - File
Importance: High

A Chara

I refer to your recent e-mail to the Planning Department on the 28th November 2007. I note that you already have the Manager's Report in relation to the Shannon LNG Project with An Bord Pleanála.

In relation to a verbal report which Cllr. Kiely made to the Council in connection with the Corporate Policy Group Meeting held on the 20th November 2007, he stated that the County Manager had informed the meeting that he had visited a similar development in Boston and that there were other industrial developments up to the boundary of the site. The Plant in Boston is in operation for over 40 years. In relation to your query, I wish to confirm that the following Council Staff accompanied the County Manager on that site visit:-

Mr. Michael McMahon	Director of Planning & Sustainable Development
Mr. Tom Sheehy	Snr. Engineer – Planning Policy
Mr. Declan O'Malley	S.E.P. Planning Management (North Kerry)

Regards

Lorraine Sheehan
Forward Planning
Planning Dept
Kerry County Council

066-7161801
Ext 3373

A brief google search of Everett LNG terminal raises the serious issues surrounding this terminal as follows:

http://www.boston.com/news/local/massachusetts/articles/2006/08/29/drill_will_be_gauge_of_terror_readiness/

http://www.boston.com/news/local/massachusetts/articles/2007/10/25/coast_guard_blocks_fall_river_lng_terminal?mode=PF

Coast Guard blocks Fall River LNG terminal

Span was factor in ruling; developer plans an appeal

By Stephanie Ebbert, Globe Staff | October 25, 2007

A proposed liquefied natural gas terminal that had incited public fears about an explosive accident or terrorist attack on Fall River's waterfront was blocked yesterday by the US Coast Guard, which ruled that the Taunton River is unsafe for frequent trips by LNG tankers.

Barring a successful appeal by Weaver's Cove Energy, the decision appeared to bring to a close a tumultuous chapter in Fall River, whose residents and political leaders had waged an aggressive campaign against a project they regarded as a dangerous intruder on their shores. The city's two congressmen aided the cause by getting federal legislation passed that prevented the long-planned demolition of the structurally deficient, 101-year-old Brightman Street drawbridge, which is not large enough for the large ships to pass through.

"That bridge may be responsible for saving the city of Fall River from this horrible fate of having an LNG facility planted right in the middle of it," said US Representative James P. McGovern. "That bridge deserves a lot of credit."

After the congressional vote, Weaver's Cove Energy proposed circumventing the bridge problem by using smaller vessels, roughly 750 feet long and 85 feet wide, to make deliveries twice as often, up to three times a week. But the drawbridge is only 98 feet wide.

In a 37-page report, the Coast Guard pointed out that the old bridge and a new span, currently under construction, are just 1,100 feet apart and that the ship passages are not aligned. The new bridge was originally designed to replace the drawbridge, but mariners will have to navigate both. To get through safely, a ship would need to slow to nearly a halt and either be towed or move laterally 100 feet. While other commercial ships now make the trip, the vessels that Weaver's Cove proposed were bigger and would make more frequent trips. In addition, the coal ships currently traveling up the river require no security zone, as LNG tankers do, the report states.

"Certainly there are competent mariners out there who can make this go right 10 times, 100 times," Lieutenant Commander Benjamin Benson of the Coast Guard said in an interview. "But it needs to go right every time."

The narrow confines of the river also would prevent tankers from turning around in the event of an accident, the Coast Guard ruled. "In short, once a northbound LNG tanker enters the federal channel in this segment, they are committed to completing the entire transit - there is no feasible alternative," US Coast Guard Captain Roy A. Nash wrote in his report deeming the river unsuitable for an LNG terminal.

While Weaver's Cove has assured that the terminal would not pose a danger, the fear of the unknown post-Sept. 11, 2001, has led many to consider whether LNG tankers so close to shore could pose an attractive target for a terrorist attack. The governor's office said yesterday that the tankers would have traveled near a densely populated urban area and within 33 yards of two heavily traveled bridges and the Battleship Cove floating naval museum.

In recent years, Mayor Thomas M. Menino of Boston has railed against the dangers at a similar LNG terminal in Everett, where nearly weekly deliveries through Boston Harbor draw a thick security contingent of helicopters, the Coast Guard, and State Police. Everett is one of four LNG terminals along the East Coast. Two additional facilities are being built offshore north of Boston.

Yesterday's ruling represented the Coast Guard's final word on the project, though Weaver's Cove can appeal to the Coast Guard for reconsideration, an action the developer immediately vowed to take, saying that the recommendation "lacks the necessary factual support."

"The decision disregards critical facts in the record and introduces both new data and new concerns on which Weaver's Cove Energy was not provided an opportunity to comment," said a statement by the company, a subsidiary of Hess LNG.

The project has been opposed by many local residents, politicians, and officials, who feared that frequent LNG deliveries along the densely populated waterfront would be a burden on emergency management and public safety agencies. Governor Deval Patrick praised the Coast Guard's decision.

"We are grateful for the Coast Guard's independent and objective assessment of the security and safety risks involved with the Weaver's Cove LNG project," Patrick said in a written statement. "I am pleased that the Coast Guard's concerns, like ours, were about site suitability and security."

In 2003, Weaver's Cove Energy proposed to build an LNG storage tank, a new pier, processing equipment, and several support buildings at a former Shell Oil terminal in Fall River. The proposed terminal would unload LNG from tankers from overseas and include a new pipeline to ship gas to an interstate system.

Two years later, the project easily won approval from the Federal Energy Regulatory Commission, which declined to reconsider its decision even after Congress preserved the Brightman Street Bridge, complicating the anticipated route for the LNG tankers. The

attorneys general of Massachusetts and Rhode Island joined Fall River in challenging the commission's decision in a case that is still pending before the First Circuit Court. That case argues that the commission should have reopened the proceedings after the bridge was preserved and that it improperly rejected alternative sites, among other issues.

The commission's approval was contingent upon the sign-off by of the Coast Guard.

The news that the Coast Guard had rejected the project seemed like a parting gift to Mayor Edward M. Lambert Jr., who is leaving the Fall River post this week for a job at the University of Massachusetts at Dartmouth and who made the LNG battle a cornerstone of his last years in office.

"It's very nice; I don't think they planned it that way," Lambert said jokingly of the Coast Guard's timing. "I think the whole community here is in a celebratory mood, although we recognize it's not over till it's over."

Stephanie Ebbert can be reached at ebbert@globe.com. ■

From: McElligott, John

Sent: 23 November 2007 16:59

To: 'ombudsman@ombudsman.gov.ie'

Subject: Re Complaint concerning refusal to carry out an SEA on variation No 7 of 2007 and unethical motivation of councillors in voting for rezoning which paved the way for a fast track Submission to An Bord Pleanála by Shannon LNG regarding the Proposed Liquefi

Kilcolgan Residents Association
c/o Johnny McElligott
Island View,
5 Convent Street,
Listowel,
County Kerry
safetybeforelng@hotmail.com
Tel: (087) 2804474

23rd November 2007

The Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2

By Email only to ombudsman@ombudsman.gov.ie

Re Complaint concerning refusal to carry out an SEA on variation No 7 of 2007 and unethical motivation of councillors in voting for rezoning which paved the way for a fast track Submission to An Bord Pleanála by Shannon LNG regarding the Proposed Liquefied Natural Gas (LNG) regasification terminal located on the Southern shore of the Shannon Estuary in the townlands of Ralappane and Kilcolgan Lower, County Kerry (reference PL08 .PA0002 and PC 08.PC0002).

Dear Sir/Madam,

We have 4 new issues to support or complaint.

1. As you can see in attachment 11 (Pre-planning Consultations) which is also on the Shannon LNG website (<http://www.shannonlngplanning.ie>), there have been 2 pre-planning consultations between Shannon LNG and Kerry County Council before the SEA screening report was compiled in November 2006 viz. 23rd June 2006 and 20 October 2006.
2. With 10 hectares of development planned for the actual estuary itself the development is partially in a SAC area it is evident that this would have had an effect on the environment before the screening report was undertaken (see attachment 12- Shannon LNG EIS Non Technical Summary volume 1 or <http://www.shannonlngplanning.ie>)
3. On September 18, 2006 Shannon LNG made an application for a weather station at the site (reference 06/4328) so Kerry County Council knew beyond any reasonable doubt what was intended for the site (see attachments 13 and 14 or http://www.kerrycoco.ie/ePlan/InternetEnquiry/rpt_ViewApplicDetails.asp?validFileNum=1&app_num_file=063428) and it is inconceivable that they should claim this would not have an effect on the environment and therefore had no need for an SEA.

4. We have uncovered (see attachment 15) another fast-track planning application for “**a petroleum storage installation** and related marine facilities at Ballylongford” currently before An Bord Pleanála at the pre-planning stage with a decision due on November 29th 2007 on whether or not it qualifies for fast-track planning. The company is **SemEuro?** We contacted John Spencer, the managing director of SemEuro in Geneva on Wednesday November 21st 2007 and he referred us to Kieran Parker of the SemEuro Group in the UK. Kieran Parker just confirmed on November 22nd ago by phone that we should contact Shannon LNG if we have any questions and that he could not comment any further.

So SemEuro and Shannon LNG are linked.

This now therefore means that this planning process is diving quickly into farcical proportions as the local authority of Kerry County Council have not disclosed any information about SemEuro and therefore Shannon LNG's true intentions. People have been misleadingly lead to believe locally that SemEuro is intending to build on the Ballylongford to Asdee side of Ballylongford Bay. However, Darren Coombes of An Bord Pleanála confirmed to us also on November 22nd that SemEuro are actually applying **for planning adjacent to the Shannon LNG site on the landbank**. What does this say for top-tier Seveso 2 sites' exclusion zones on the SAC area of the Lower Shannon and the Ballylongford and Tarbert Bay areas defined as of significant ecological importance in the Kerry County Development Plan 2003-2009 ? **He also confirmed that SemEuro had consultations with Kerry County Council.**

Can one still say that LNG and petroleum storage will not have an effect on the environment? This further proves the lies that were when it is evident that a development of this size would have an effect on the environment.

Why has the information on SemEuro not been in the public domain as it has a huge bearing on the real intentions of Shannon LNG and has deprived the general public timely access to information on intentions and possible alternative uses of the site to participate fully in the planning process

5. Through the media, not to us the people who lodged the complaint, the Council has replied that the **Consultants** that did the SEA screening report reported that no SEA was necessary. Of course (as can be seen from the Shannon LNG booklet published in May 2006 page 7) it was already known that Seveso regulations would apply. The county manager can therefore say that he acted in good faith in accepting the consultants report. The Consultants hired out can say they acted in good faith because no mention was made of Shannon LNG nor of the SemEuro petroleum storage so these hazardous chemicals sites did not even get mentioned in the screening report; the Councillors can say that they acted in good faith in accepting the report of the County Manager at face value. So everyone has an opt-out plausibly-deniable answer for any disaster down the line and we all go around in circles patting each other on the backs saying what a great legacy we have left the county. It's an environmental and safety disaster of a legacy we are leaving those that come after us, more like and we will be disdained for it.

Kerry County Council refused to undertake an **SEA, which would have represented the only independent assessment of the development of the landbank and Lower Shannon Estuary**. All we finally received to our comprehensive complaint to the council was a one-line statement on November 22nd 2007 from Anne O'Sullivan (see attachment 16) on November 22nd 2007 stating

“ In relation to the question of a Strategic Environmental Assessment this is not mandatory in this case and Kerry County Council following a screening process decided that such Strategic Environmental Assessment was not necessary.”

We are now, convinced more than ever that a **serous breach of procedure has** taken place and have supplied you with all the remaining evidence necessary to back this up.

We await your reply and actions.

Yours faithfully,

Johnny McElligott

Attachments:

11. Pre-planning Consultations by Shannon LNG
12. Shannon LNG Terminal EIS Vol 1 of 4 issue 1.
13. Application for Weather Station on a 10M. High mast with Security fencing by Shannon LNG at the site of the proposed LNG terminal in Kilcolgan
14. Full application for weather station 063428
15. SemEuro Planning for Petroleum Storage facilities
16. Final Reply from Kerry County Council on Complaint from Kilcolgan Residents Association on breach of procedure

From: McElligott, John
Sent: 21 November 2007 10:50
To: 'ombudsman@ombudsman.gov.ie'
Cc: 'jbradley@CLARECOCO.IE'; 'Adam Kearney Associates'
Subject: FAO Local Authority Section: Complaint concerning refusal to carry out an SEA on variation No 7 of 2007: further information

Kilcolgan Residents Association
c/o Johnny McElligott
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5 Convent Street,
Listowel,
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21st November 2007

Local Authority Section,
The Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2
ombudsman@ombudsman.gov.ie

Dear Sir/Madam,

We have received a clarification from John Bradley from Clare County Council as follows in the email below which he wants brought to your attention. Could you please add this to the file we submitted you on November 19th 2007 please.

Yours faithfully,

Johnny McElligott
Tel: 087-2804474

From: John Bradley [mailto:jbradley@CLARECOCO.IE]
Sent: 20 November 2007 17:22
To: 'Adam Kearney Associates'
Subject: RE: Local Group Website

Hi Adam I want to clear up a point that I picked up in your letter to the Ombudsman. I stated that I could not **remember** receiving any SEA report from the Kerry County Council, in regard to this matter not that I had not received a SEA report. Please correct any misunderstanding in this regard. I understand that a SEA screening report was prepared but have no record of it in my files. Regards John Bradley

Kind Regards,
Johnny McElligott

Kilcolgan Residents Association
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19th November 2007

The Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2
ombudsman@ombudsman.gov.ie

Complaint concerning refusal to carry out an SEA on variation No 7 of 2007 and unethical motivation of councillors in voting for rezoning which paved the way for a fast track Submission to An Bord Pleanála by Shannon LNG regarding the Proposed Liquefied Natural Gas (LNG) regasification terminal located on the Southern shore of the Shannon Estuary in the townlands of Ralappane and Kilcolgan Lower, County Kerry (reference PL08 .PA0002 and PC 08.PC0002).

Dear Sir/Madam,

From as early as May 2006, it was clear from booklets distributed by Shannon LNG (see attachment 1) that Shannon LNG was planning an LNG terminal on the site at Kilcolgan – the first of its kind in the country and one which would see 4.4 million gallons of water pumped from the Shannon Estuary every hour. The most serious environmental concern has always been that pumping over 108 million gallons of chlorinated and cooled water into the estuary daily will cause serious environmental damage to the eco-system of this SAC area. The withdrawal and discharge of huge volumes of seawater will affect marine life by killing ichthyoplankton and other micro-organisms forming the base of the marine food chain unable to escape from the intake area. Furthermore, the discharge of cooled and chemically-treated seawater will also affect marine life and water quality.

However, the site was still zoned Rural General and Secondary Special Amenity at the time.

To rezone the land to Industrial, a variation had to take place to the Kerry County Development Plan 2003-2009.

In March 2007, the site at Tarbert was therefore rezoned from “Rural General” to Industrial through variation No. 7 of the County Development Plan.

The stated purpose of the variation was as follows:

“The purpose of the variation is to facilitate consideration of suitable development of these lands in accordance with the provisions of section 5.2.9 of the Kerry County Development Plan 2003-2009 which states: ‘lands have been identified at Ballylongford/Tarbert as suitable for development as a premier deep-water port and for major industrial development and employment creation’. The adoption of this variation gives effect to objective ECO 5-5 of the Kerry County Development Plan 2003-2009 which states: ‘It is an objective of Kerry County Council to identify lands in key strategic locations that are particularly suitable for development that may be required by specific

sectors. Land in such locations will form part of a strategic reserve that will be protected from inappropriate development that would prejudice its long-term development for these uses.”

However, extremely serious issues surrounding the rezoning of the landbank at Kilcolgan to Industrial from rural general in March of this year have now been uncovered and we are hereby lodging a formal complaint on this matter to the Ombudsman’s Office as the questions we raise bring in to serious disrepute the whole planning process in Kerry and are furthermore putting the lives of the people of Kilcolgan in danger through the attempts to fast track a Seveso 2 site without following all planning procedures correctly. As we raised these issues with Kerry County Council last week we feel that their answers are inadequate, hence our complaint to you.

Clare County Council objected to the rezoning (see attachment 2) on the grounds that:

“the proposed rezoning is likely to have a significant impact on the future development of the region, and will have a direct impact on the planned objectives for the Mid West Regional guidelines for the Shannon Estuary and in particular the Planning, Economic and Service Infrastructural development objectives for zone 5 of the plan. Any industrial development including the construction of a deepwater harbour will have a major impact on both the visual and ecological amenities of the area, and potentially on the Lower Shannon Estuarine Environment, including the foreshore of County Clare. Clare County Council would like an appraisal of any SEA investigation which may have been undertaken in respect of the proposed variation”. The Kerry County Manager replied: “Any future application of these lands will be subject to an Environmental Impact Assessment. This process will ensure that any proposals will take into account impacts on the visual and ecological amenities of the area. A copy of the SEA screening report for the proposed variation will be forwarded to Clare County Council.”

No SEA has been undertaken as required for a variation to the development plan under Statutory Instrument No 436 of 2004 Article 7 section 13K and article 12 schedule 2A of the same Statutory Instrument (<http://www.irishstatutebook.ie/2004/en/si/0436.html#article12>) where there will be a significant effect on the environment.

The County Manager Report’s conclusions on March 8th 2007 (see attachment 2) that *“it does not appear that there is a need for a SEA in this instance as the proposed variation is unlikely to result in development which would have significant effects on the environment”* are extremely questionable for the following reasons:

- i. it was known at the time of the report that Shannon LNG had an option to buy the lands subject to planning permission for the LNG terminal with the serious consequential effects on the environment as detailed above. Indeed, An Bord Pleanála wrote to the County Manager on February 7th, 2007 notifying them of Shannon LNG’s request for pre-application consultations under the planning and Development (Strategic Infrastructure) Act 2006 for an LNG terminal on the said site.
- ii. The waters of the Lower Shannon are in a candidate Special Area of Conservation (SAC) and therefore protected under the EU Habitats directive.
- iii. Clare County Council raised serious concerns that the construction of a deepwater harbour would have a major impact on both the visual and ecological amenities of the area and potentially on the Lower Shannon Estuarine Environment, including the

foreshore of County Clare, and requested an appraisal of any SEA investigation as detailed above.

- iv. The Senior Executive Planner of Clare County Council, John Bradley, who made the submission on behalf of Clare County Council, has confirmed that no such screen report was ever received by Clare County Council
- v. The EPA could not confirm receipt of the SEA screening report, even though Tom Sheehy of Kerry County Council maintains it was sent in December 5th 2006 (see attachment 8).
- vi. The ecological sensitivity of the area has been recognised in the Kerry County Development Plan (see attachment 4) in declaring both Ballylongford Bay and Tarbert Bay as areas of Ecological Importance but this fact was completely ignored in the report.
- vii. The Department of the Environments Guidelines for Local Authorities on implementation the SEA directive are clearly not adhered to as the site is a Seveso 2 site surrounded by SAC and NHA areas as per sections 3.5 and 3.10 (2) (see attachment 5)

“3.5 The key to deciding if SEA will apply will be *whether the plan would be likely to have significant effects on the environment*. The decision should not be determined by the size of an area alone. It will also be influenced by nature and extent of the development likely to be proposed in the plan and its location (e.g. close to or within an SAC, SPA or NHA), and its broad environmental effects”

“Criteria for Determining the Likely Significance of Environmental Effects

3.10 Schedule 2A to the Planning and Development Regulations 2001 sets out two main types of criteria for determining whether a plan would be likely to have significant environmental effects:

(1) Characteristics of the Plan: for example, the scale of development likely to take place over the life of the plan, or the degree to which it promotes sustainable development. Does the plan set out environmentally-friendly objectives? What environmental problems are of particular relevance to the plan?

(2) Characteristics of the effects and of the Area likely to be affected: for example, the magnitude, cumulative nature and reversibility of the effects, or the value and vulnerability of the area likely to be affected by implementation of the plan. How many people are likely to be affected by the plan? Are there areas of conservation sensitivity (such as natural habitats) within or adjacent to the area covered by the plan? Much of the advice contained in the Department's Guidance (*August 2003*) on EIA sub-threshold Development (www.environ.ie) regarding areas of conservation sensitivity is also of relevance for SEA. How intensive is the nature of the proposed landuse? Is there a risk of accidents, *e.g. involving Seveso landuses?*”

- viii. The Ballylongford Screening report (see attachment 7) makes no mention of Shannon LNG having an option to purchase land on the site subject to planning permission for an LNG terminal, even though this was known since at least May 2006 and that this was already discussed in the Kerry County Council meeting of 20 June 2006 (see attachment 9) as follows:

“20. Establishment of a committee to deal with infrastructural development and Planning issues relating to the Ballylongford Land Bank Pursuant to notice duly given Cllr. J. Brassil proposed:-

“In light of the major announcement made by Minister Micheal Martin regarding the development of the Shannon Development owned Ballylongford land bank that Kerry County Council put a team of people together to specifically deal with the infrastructure development and planning issues that will be associated with this project.”

Mr. C. O’Sullivan, SEO Corporate Services read the following report:-

The Ministers announcement in relation to the proposals for Ballylongford is to be welcomed. Preplanning discussion with Shannon LNG will shortly commence. The necessary planning and infrastructure teams will be put in place as discussions develop more fully the particular project proposal and the needs of the Ballylongford Land Bank generally. Project progress will be overseen by Sub Committee of Senior Management Team. The situation will be kept under review as the project progresses.

Cllr. J. Brassil welcomed the report and said that this has the potential to be a huge project for North Kerry and he called on the Executive to give it every support.

Cllr. L. Purtill welcomed the recent announcement for the development of part of Ballylongford Land Bank and supported Cllr. Brassil’s motion.“

Without any information in the public domain regarding the scoping or the actual execution of an SEA (see attachment 6), this rezoning is fundamentally unsound and invalid.

On March 12th 2007, from the minutes of the Kerry County Meeting (see attachment 3) it can be confirmed that Mr. McMahon, director of planning, circulated his SEA screening report (see attachment 2) to the councillors and briefed them on it.

Councillor O'Sullivan proposed acceptance of the variation having considered the County Manager's Report and this was seconded by councillor Beasley.

All the councillors present voted for the motion (Beasley, Brassil, Buckley, Cronin, Ferris, S.Fitzgerald, Foley, Gleeson, M.Healy-Rae, Leahy, McCarthy, McEllistrim, Miller, O'Sullivan, Purtill, T. Fitzgerald).

The following councillors were absent: Cahill, Connor-Scarteen, Fleming, D. Healy-Rae, MacGearailt, O'Brien, O'Connell, O'Connor, O'Donoghue, O'Shea and Sheahan.

Our complaint is that an SEA should have been undertaken by the statutory body (Kerry County Council) as requested by Clare County Council who quite rightly pointed out that the rezoning would have a direct impact on the environment and the planned objectives for the Mid West Regional guidelines for the Shannon Estuary. We believe that this was not undertaken because pressure to fast-track the rezoning for the Shannon LNG company took precedence over following the correct procedures to the detriment of the Shannon Estuary, its environment and environs and to the people living and owning property adjacent to the land bank. In our opinion both the County Manager and the elected representatives were collectively responsible for this deliberate effort to push through the development at all costs.

On November 26th 2007, Kerry County Council is due to have its next meeting where its position on the submission to An Bord Pleanala concerning the Shannon LNG planning application will be decided. For this reason, we request you deal with this serious complaint with the greatest urgency. Furthermore, we bring to your attention that Councillor John Brassil is Chairman of Shannon Development and request that he and other councillors with links to Shannon Development and the developer on the site declare their interests and absent themselves from the Council Meeting while this issue is being discussed on ethics grounds.

Our submission to An Bord Pleanala is attached giving a clear explanation of the serious concerns we have about the proposed development (see attachment 10).

Our complaint is very serious, because if the planning authorities will not follow their own rules then why bother having a planning process?

Yours faithfully,

Johnny McElligott

Attachments:

1. Shannon LNG Booklet May 2006
2. Kerry County Manager's report on variation No 7 to Kerry County Development Plan
3. Minutes of March 12th Meeting of Kerry County Council
4. Kerry County Development Plan – Appendix 1G
5. SEA Guidelines
6. Notice of proposed variation to Kerry County Development Plan
7. Ballylongford Screening Report
8. Email Communication with Kerry County Council

9. Minutes of June 20th 2006 Meeting of Kerry County Council
10. LNG Planning Submission by Kilcolgan Residents Association

ATTACHMENTS:

1. Shannon LNG Booklet May 2006
2. Kerry County Manager's report on variation No 7 to Kerry County Development Plan
3. Minutes of March 12th Meeting of Kerry County Council
4. Kerry County Development Plan – Appendix 1G
5. SEA Guidelines
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7. Ballylongford Screening Report
8. Email Communication with Kerry County Council
9. Minutes of June 20th 2006 Meeting of Kerry County Council
10. LNG Planning Submission by Kilcolgan Residents Association
11. Pre-planning Consultations by Shannon LNG
12. Shannon LNG Terminal EIS Vol 1 of 4 issue 1.
http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_1_of_4_Issue1.pdf
13. Application for Weather Station on a 10M. High mast with Security fencing by Shannon LNG at the site of the proposed LNG terminal in Kilcolgan
14. Full application for weather station 063428
15. SemEuro Planning for Petroleum Storage facilities
16. Final Reply from Kerry County Council on Complaint from Kilcolgan Residents Association on breach of procedure

OMBUDSMAN ATTACHMENT

- 1. Shannon LNG Booklet May 2006**

May 2006

Major project to secure Ireland's natural gas supply



Shannon LNG, an Irish subsidiary of Hess LNG Limited, which is a 50/50 joint venture of Hess Corporation and Poten & Partners, is at the early stages of a major development which will help secure Ireland's long-term supply of natural gas.

The company has entered into an 'option-to-purchase' agreement with Shannon Development, the regional development agency, in relation to 281 acres of the 600-acre state-owned land bank between Tarbert and Ballylongford, County Kerry. Subject to feasibility studies, technical assessments and in due course, planning and other approvals, it will become the site for a major €400 million liquefied natural gas (LNG) import terminal.



Shannon Development's 600-acre land bank between Tarbert and Ballylongford, County Kerry

Liquefying natural gas reduces the volume it occupies by more than 600 times, making it manageable for storage and transportation. LNG is produced primarily in locations where large gas reserves have been discovered; however, these reserves are often too distant from market areas to economically transport the gas by pipeline. Natural gas is liquefied at these locations and loaded on LNG tankers. LNG export sources include Algeria, Australia, Egypt, Indonesia, Malaysia, Nigeria, Oman, Qatar and Trinidad. LNG exports are also planned from a number of other countries, including Norway, Russia and Venezuela.

As natural gas is the most environmentally friendly fossil fuel, over the past two decades it has become the global fuel of choice for electricity generation, other industrial energy consumption, home heating and cooking.

For many years the Kinsale Head Gas Field was Ireland's only source of natural gas. However, this field is now nearly exhausted. In recent years, the UK North Sea was the primary supply source, but now it too is rapidly depleting. Some industry forecasts predict that the UK will be importing over half its natural gas needs by 2011 from remote fields in Russia, Algeria, offshore northern Norway and elsewhere.

LNG is natural gas that has been cooled to a very low temperature (minus 160 degrees centigrade), at which point it becomes a liquid. It is stored and transported in insulated tanks at normal atmospheric pressure like a cold drink in a thermos flask.

Continued Overleaf

Ireland currently imports over 85% of its natural gas requirements from the UK and Irish wholesale gas prices are set primarily by UK market conditions, plus the cost of transporting gas from the UK to Ireland.

The overall increase in demand and the increasing distances (from Russia and Algeria, for example) over which pipeline gas must be transported will exert substantial upward pressure on prices, as reported recently in the national newspapers. An LNG terminal in Ireland will help to address the supply-demand imbalance, avoid the costs to move gas within the UK system and will give rise to increased competition in the local gas market, leading to downward pressure on prices.

With the announcement of the project, Shannon LNG will start the necessary site evaluation work to establish how best to configure and accommodate an LNG terminal on the site. This will have to be considered in tandem with marine investigations, to ascertain where and how best to establish berthing and offloading facilities for visiting LNG tankers. The earliest any planning application can be lodged with Kerry County Council will be 2007. In the meanwhile, Shannon LNG will keep you informed through the local development associations, occasional newsletters and through personal contact as project activity on the ground increases.

Shannon LNG is committed to active communication and consultation with the local community and all interested parties during the planning for the proposed LNG terminal.

National Gas Grid



“...a major development which will help secure Ireland’s long-term supply of natural gas”



Site location

Shannon Development



Shannon Development, the government established regional development company, owns and manages several major industrial and business parks in the Shannon Region. A primary activity of Shannon Development is the provision of property based solutions for Irish and foreign industry projects in the Shannon Region. Shannon Development has over 45 years experience in attracting large-scale industrial development and investment and also holds land banks to facilitate industrial development, the largest of which is this 600 acre site.

Shannon Development has actively marketed the potential of the site to an international business audience over many years and is pleased to have attracted leading global energy players of the calibre and experience of the Shannon LNG team. Shannon Development has agreed to give an option on a portion of its site to Shannon LNG, to allow time for the detailed design and appraisal of the proposed project, and for full consultation with the relevant authorities and the local community.

Shannon Development believes that the proposed project could bring significant long-term economic benefits to North Kerry and provide a regional solution to a national energy need, in terms of providing additional security and diversity of energy supplies.

Securing the project will also enable Shannon Development to explore the potential of its remaining lands at Tarbert/Ballylongford, and Shannon Development will be working to ensure that the overall development of this important national strategic site is progressed in conjunction with the Shannon LNG project.



Signing the purchase option agreement between Shannon Development and Shannon LNG were (l-r) Kevin Thompstone, Chief Executive, Shannon Development, Gordon Shearer, CEO, Hess LNG, Liam McElligott, Chairman, Shannon Development, and Paddy Power, Managing Director, Shannon LNG

PRODUCTION



LIQUEFACTION



SHIPPING



REGASIFICATION



MARKETING



Economic benefits

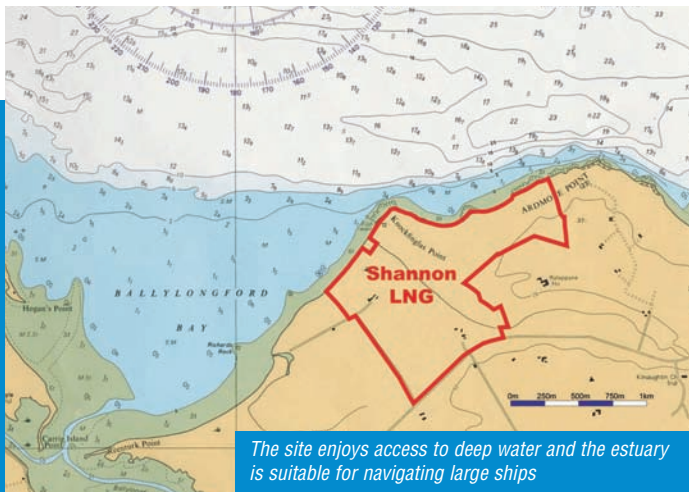
Natural gas is the fuel of choice for industrial and domestic use and also for electricity generation. It is clean and produces significantly less carbon dioxide than coal or oil. The world has large reserves of natural gas but much of it is often located in inaccessible areas, far from markets and requiring substantial investment in pipelines or liquefaction plants to transport the gas to the marketplace.

At present, sharply declining gas production in both the UK and Ireland coupled with escalating market demand is driving local gas prices upwards, as reported recently in the national newspapers. As the EU becomes increasingly reliant on imports from Russia and other remote areas, security and diversity of supply is increasing in importance. This was brought sharply into focus by the recent dispute between Russia and Ukraine, which caused a temporary disruption of Russian gas supplies to some parts of Central and Western Europe. Ireland needs secure, diverse, competitively priced and environmentally friendly supplies of energy. The LNG industry can meet these supply requirements, thereby supporting economic and social development in Ireland and assist the country in meeting national environmental targets.

A Shannon based LNG terminal will provide new gas supplies and mitigate security of supply concerns. The proposed project would bring significant long-term economic benefits to North Kerry and provide a regional solution to a national energy need. Some other benefits include:

- **Security and Diversity of Supply:** LNG will allow Ireland to access multiple sources of gas and deliver greater security and diversity of supply. This leads to greater gas price competition, which is good news for Irish consumers.
- **Energy Efficiency:** In modern electricity stations gas is more efficient and environmentally friendly/benign than other fossil fuels. Gas has an energy efficiency of around 60% compared to oil (38%) and coal (39%).
- **Environmental Benefits:** Greater use of natural gas will help Ireland comply with its national Kyoto obligations to reduce CO₂ emissions. When used to generate electricity, natural gas generates lower CO₂ and NO_x emissions than other fossil fuels. It produces no SO_x emissions.
- **Employment:** The terminal will employ about 50 long-term operating staff. Additional jobs will be also be created in support, ancillary and contracted services. Employment during construction could reach over 350 jobs at peak, leading to substantial local economic benefits.
- **Local Impact:** Particular attention will be paid to the use of local employment and the purchase of local goods and services.

The proposed facility



The site, owned by Shannon Development, was acquired by the state as a national strategic location for large-scale maritime related industry. It enjoys access to deep water and the estuary is suitable for navigating large ships. The site is also close to the national gas and electricity grids, presenting a suitable location for an LNG import terminal.

An LNG import terminal primarily consists of a marine berth, LNG offloading facilities and storage tanks and vaporisers to turn LNG from a liquid back into gas. The facility under consideration will have a capacity of three million tonnes per annum, or about 400 million cubic feet per day, equivalent to roughly 40% of Ireland's annual natural gas consumption. The deep water berth will include a jetty and secure mooring arrangements capable of receiving state-of-the-art double hulled LNG tankers, including the maximum size now under construction.

LNG will be pumped from the tankers to storage tanks comprised of an inner tank built from cryogenic steel, surrounded by several feet of insulation and an outer tank of steel reinforced concrete. Each tank is at normal atmospheric pressure, storing the LNG like a cold drink in a well-insulated flask.

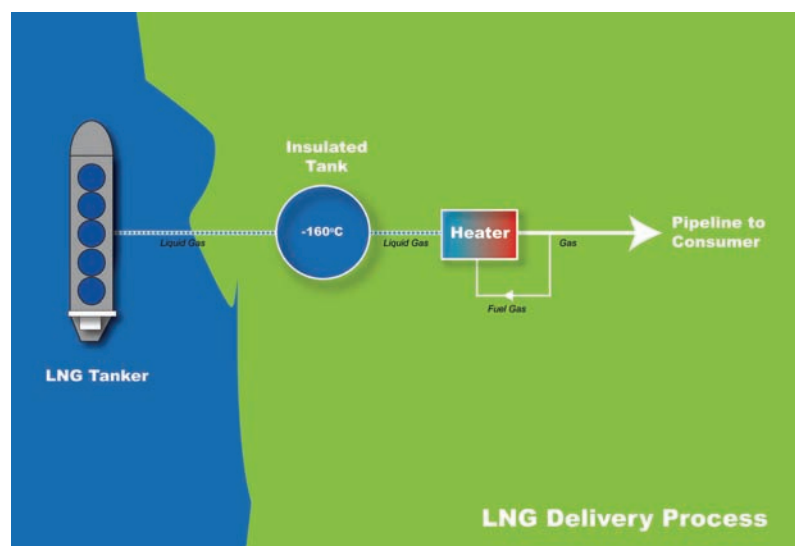
LNG will be converted back to natural gas at the terminal. Typically, a re-gasification terminal uses the heat extracted from large volumes of seawater or warmth from gas-fired heaters to vaporise the gas in heat exchangers. The LNG is only under pressure when it is ready to be re-gasified and the pressure is just sufficient for it to be piped into the existing national gas grid and on to the end users.

The facility will be designed, built and operated in compliance with Irish and EU regulations and international LNG industry guidelines, employing state-of-the-art technology. The planning process and commercial arrangements will take a minimum of two years to complete. Construction will take an additional three years.

In these circumstances construction is not expected to begin until 2008 with the terminal becoming operational in 2011 at the earliest. Following topographical, geotechnical and other assessments of the site, the optimum location for the LNG tanks, regasification facilities and jetty will be determined. The requirements for a safe and efficient berth include a sheltered berthing area with water depths greater than 13 metres at low tide.

Subject to confirmation through further due diligence and site investigations, the site and the Shannon estuary appears to be suitable for an LNG import terminal. Marine surveys and shipping simulations will be completed as part of the project development activities. Initially, a three million metric tonne per annum import terminal is envisaged, comprising two or possibly three tanks. Possible future expansion will also be considered.

Shannon LNG will keep interested parties informed as the project study proceeds. In due course, when the necessary pre-planning application evaluations have been conducted, Shannon LNG will be happy to discuss the proposal and its implications in detail with you.



A safe technology

LNG import terminal technology is relatively simple and has proven safe and reliable for over 40 years. There are 52 LNG import terminals operating worldwide and in light of the changing economics and security of future energy supply, an estimated 60 more are currently in the course of construction or planning.

LNG is a safe fuel both to transport and store. Ship tanks and shore tanks are maintained at atmospheric pressure, or very slightly above to make sure no air can enter. LNG contains no oxygen and in liquid form LNG cannot burn and cannot explode. LNG vapours are flammable in air but only in a narrow gas to air concentration of 5% to 15% and will not explode unless they are ignited in a confined space. LNG terminals are specifically designed to detect any leakages and to shut down the process systems before dangerous conditions can arise, to eliminate ignition sources and to prevent potential leakages entering confined spaces.

Safety at the proposed facility will be achieved through the application of the latest technology, continuous personnel training, full compliance with procedures for safe operation and strict monitoring and enforcement of industry and government regulations.

The facilities and procedures will be designed to prevent accidents, however for the credible worst-case scenario safety systems will be deployed throughout the terminal. Import terminals employ a series of safety measures including gas detectors, fire, heat, cold and smoke detectors and close monitoring of all systems.

Codes and standards for LNG terminals are well established and proven to ensure the safety of the employees, the public and the facilities. Emergency response plans and drills will be performed and coordinated with local authorities.

LNG has been safely transported around the world by sea for the past 40 years. LNG tankers have made over 45,000 ocean voyages, covering more than 90 million miles without any serious incident. LNG tankers are also generally more environmentally friendly than other tankers and ships because they use natural gas, rather than oil, as their primary fuel source for propulsion and their cargo is non-toxic and non-polluting.

LNG terminals in Europe



LNG terminals worldwide

The use of liquefied natural gas is by no means new. It has been in use since the 1960s around the world and LNG import terminals are generally located close to areas with high gas demand but insufficient local supply and in some cases, in or adjacent to cities such as Boston and Tokyo.

For example, large volumes of LNG are currently delivered to Japan, which with virtually no domestic source of gas, has built its gas infrastructure around LNG over the past 35 years. In order to meet the expected growth in LNG demand in the US, more than 50 new import facilities have been proposed. Japan, Korea and Taiwan, major industrialised nations, get almost 100% of their natural gas requirements from imported LNG.

In the UK, the first LNG import terminal began operation at Canvey Island on the Thames estuary in 1964 and operated safely until it was closed in 1990 with the arrival of more economical North Sea gas. With North Sea gas reserves now inadequate a new LNG terminal opened in July 2005 on the Isle of Grain, in Kent. Two additional terminals are under construction at Milford Haven, in Wales.



Insulated tank under construction

Some questions answered

What is proposed?

Shannon LNG is proposing to build a liquefied natural gas (LNG) receiving terminal on a 281 acre site owned by Shannon Development on the Shannon Estuary, comprising two or more LNG storage tanks and related buildings and facilities. In addition, a new pipeline, about 25 to 30km in length, will be built to transport the gas to the national gas pipeline system, east of the site.

Why did you pick this site?

The site is located adjacent to the deepwater estuary of the Shannon and it is also close to the national gas pipeline system. The site, in state ownership, has been designated by Shannon Development for deep-water projects.

Why do we need this project?

We need additional supplies of natural gas for Ireland. There is growing concern regarding our ability to meet the demand for natural gas, the most environmentally friendly of all fossil fuels, from existing sources. Increasingly over the past few years, our electricity system has come to rely on natural gas fuelled power stations. Ireland lies at the very end of the European natural gas pipeline system, far away from the major producing fields in Norway, Russia and Algeria. Within Ireland, gas demand has been growing in recent years.

Traditionally Ireland has been supplied by its own domestic gas supplies from the Kinsale Field which is now in irreversible decline, as well as imports from the UK delivered via the interconnector pipeline from Scotland. The UK traditionally enjoyed a surplus of gas production, but its demand is also rising just as its supplies are falling. The UK is now turning to LNG to meet the growing gap between demand and supply. Ireland need not rely on LNG imported via the UK when it can import LNG directly and enjoy the benefits of a new gas supply – added security and diversity of energy supply and lower prices.

What is LNG?

LNG is the liquid form of natural gas - the kind you may use to heat your home or for cooking. Natural gas is turned into a liquid by cooling it in a plant that operates like a giant refrigerator, cooling it to minus 160 degrees centigrade. Once the natural gas converts to a liquid at that temperature it is called LNG and it can be transported and stored at normal atmospheric pressure in insulated tanks, which act just like thermos flasks. It is the most environmentally friendly of all fossil fuels.

Is there a lot of natural gas available?

The world's proven reserves of natural gas total more than 6,000 trillion cubic feet and are growing faster than they are being consumed. That's enough to meet the world's needs for 70 years. Unfortunately, much of this natural gas is located far from Ireland and cannot be economically brought here by pipeline.

Why liquefy natural gas?

Converted to a liquid, natural gas takes up far less storage space. That makes LNG much safer, easier and less expensive to transport on tankers from overseas where there are large quantities of natural gas that cannot be transported by pipelines. Japan, Korea and Taiwan, major industrialised nations, get almost 100 percent of their natural gas from LNG imported by tankers.

Where does LNG come from?

LNG is produced in Abu Dhabi, Alaska, Algeria, Australia, Brunei, Egypt, Indonesia, Malaysia, Nigeria, Oman, Qatar and Trinidad. New production plants are being developed today in Angola, Equatorial Guinea, Norway, Peru, Russia and Venezuela among others.

Does LNG burn? Will it explode?

LNG by itself cannot burn because it doesn't contain oxygen or air. However, LNG vapour (natural gas) is flammable but only when mixed with air in a narrow range of concentration - at least 5%, but not more than 15% natural gas-to-air mixture. If the fuel concentration is lower than 5% it cannot burn because of insufficient fuel. If the fuel concentration is higher than 15% it cannot burn because there is insufficient oxygen. Therefore, LNG must first be vaporised, then mixed with air, and then exposed to an ignition source before it will ignite. Natural gas in its liquid form, LNG, cannot be ignited.

LNG is not stored under pressure. If a tank is ruptured, there is no instantaneous release of energy and thus no explosion, and any liquid which spills will evaporate.

LNG spill studies have shown that high winds rapidly dissipate the LNG vapour and in low winds (or no wind) the flammable vapour cloud would dissipate very close to the source as methane into the atmosphere, because it is lighter than air.

For an explosion to occur, LNG must first return to its gaseous state and then the natural gas vapours must accumulate in an enclosed space in a mixture of 5% to 15% of gas in air, and come in contact with an ignition source. The terminal design will incorporate a series of safety measures for detection, containment and extinguishment.

Could the tankers leak?

In the unlikely event that there's a release from a tanker, the LNG will evaporate. That means the liquid will warm up and change back into a gas. This gas would quickly dissipate because it is lighter than air. Because the LNG is not transported under pressure any leak would evaporate more slowly and cover a much smaller area than a pressurised gas such as propane or butane. Compared to petrol or home heating oil, LNG is far less flammable and will not pollute the environment if it spilled.

LNG has been transported in tankers for more than 40 years involving over 45,000 voyages and covering 90 million miles at sea. All LNG tankers are double hulled and of robust state-of-the-art construction, specially designed to protect the cargo and prevent any leakage. Although there have been typical marine accidents such as groundings and minor collisions none has resulted in release of LNG.

How safe is an LNG facility?

LNG has had an exemplary operating history and is effectively the safest of all fuels to store and manage. Today's regulations and codes are very stringent, requiring very specific technology controls, multiple containment systems and the use of special construction engineering, design and materials.

The design of LNG storage tanks involves a very thick outer wall of reinforced concrete with additional layers of steel and insulation inside. In the highly unlikely event of any leak of LNG from the storage tanks, the leak would regasify and vaporise on contact with air and being lighter than air it would quickly dissipate. In the unlikely event that a spill was to happen, it would be confined within a short distance of the storage tank and the escaped gas would gassify and dissipate without posing a local safety risk.

Who will regulate the facility?

The siting, design and construction of the proposed facility will be regulated by agencies including Kerry County Council, the Health and Safety Authority, the Department of Communications, Marine, and Natural Resources and the Commission for Energy Regulation. The facility will require planning permission and would also have to operate under the terms of an Integrated Pollution Prevention and Control (IPPC) Licence to be determined by the Environmental Protection Agency (EPA). The terminal will also be an establishment to which SEVESO regulations apply.

Will there be an environmental impact?

Once it is in operation, the plant would have very few impacts – LNG import terminals are quiet, there is no smell, no smoke, no steam, and no noise that can be heard beyond the site boundary. An LNG import terminal has extremely low air emissions and produces almost no wastewater. Shannon LNG will consult with the local authorities and the community to minimise any impacts associated with the construction of a large facility.

Will there be an impact by construction traffic?

The proposed development will be a big construction project but will be managed to minimise traffic and nuisance impacts as far as is possible. Shannon LNG will look to Kerry County Council and the local community to help achieve the best possible outcome with the least inconvenience to the community. Shannon LNG will also investigate the possibility of supporting construction on the site through barge and ferry traffic from the estuary and Shannon LNG will work with all interested parties to develop the best possible outcome.

When should LNG operations begin?

Shannon LNG hopes to begin operations in 2011, at the earliest.

When will you apply for planning permission?

A lot of work has to be undertaken before Shannon LNG can apply for planning permission. It is likely to take a year of background and detailed engineering work before it is ready to apply to Kerry County Council. An application can therefore be expected in 2007.

Will there be employment for local people?

Shannon LNG will work with the local FÁS office to maximise local employment and to support skills training to ensure that the proposed terminal can be operated by a work force which is substantially local.

Shannon LNG

Shannon LNG was established by Paddy Power, a native of Tralee, to pursue, develop and implement this exciting project. Paddy is the Managing Director of Shannon LNG and has over 35 years experience in the international oil and gas industry. The company is now a wholly owned subsidiary of Hess LNG Limited, which is a 50/50 joint venture of Hess Corporation and Poten & Partners; both highly experienced in the international oil and gas business. As the project moves forward Shannon LNG will bring on-board a highly experienced project development team to design an LNG terminal that will be both world-class and configured to suit the site.



Typical LNG receiving terminal

Further information

Shannon LNG acknowledges that the proposed development will attract public and community interest and wishes from the outset to establish a good communications system to keep people informed. Shannon LNG will publish and circulate newsletters occasionally, as the project develops to ensure that this is the case. Since the project will develop gradually, a Lo-Call telephone service to respond to enquiries has been established.

As activity on the project increases later in the year a Shannon LNG office will be established in Shannon Development's offices in Listowel, Co Kerry. Further out into 2007 a planning application will be lodged with Kerry County Council. Additionally, positioning of the pipeline and tie in to the national gas grid will be discussed with The Commission for Energy Regulation (CER) and Bord Gáis Éireann (BGE).

The proposed LNG facility is ideal for a deepwater estuary and the project, as the anchor tenant on the Shannon Development land bank, will attract other industry and investment into the region. The project is safe, attractive and environmentally sound and it is Shannon LNG's wish to foster community interest in the project and to become a good employer and a good neighbour.

Shannon LNG can be contacted about this project Monday to Friday, during normal business hours on 1890 25 23 24.



OMBUDSMAN ATTACHMENT

2. **Kerry County Manager's report on variation No 7 to Kerry County Development Plan**

**County Manager's Report on
Proposed Variation No 7
to the Kerry County Development Plan 2003 – 2009**

Variation No 7

This variation proposes to rezone 188.8ha (466.53 acres) of land, comprising 105ha (261.43 acres) currently zoned as Rural General and 83ha (205.1 acres) currently zoned as Secondary Special Amenity, in the townlands of Reenturk, Rallappane and Kilcolgan Lower, to industrial zoning.



Kerry County Council
Planning Policy Unit

Introduction

1.0 Legal Preamble

In accordance with Section 13(2a) of the Planning and Development Act 2000 (as amended), Kerry County Council propose to make a variation to the Kerry County Development Plan 2003-2009 to facilitate the development of industrial uses on lands in Reenturk, Rallappane and Kilcolgan Lower.

2.0 Proposed Variation

The Kerry County Development Plan 2003-2009 was adopted by the Council in November 2003, and came into effect on 9 December 2003. This variation proposes to rezone 188.8ha (466.53 acres) of land, comprising 105ha (261.43 acres) currently zoned as Rural General and 83ha (205.1 acres) currently zoned as Secondary Special Amenity, in the townlands of Reenturk, Rallappane and Kilcolgan Lower, to industrial zoning.

The purpose of this variation is to facilitate consideration of suitable development of these lands in accordance with the provisions of section 5.2.9 of the Kerry County Development Plan 2003 – 2009 which states: 'Lands have been identified as Ballylongford/Tarbert as suitable for development as a premier deepwater port and for major industrial development and employment creation'. The adoption of this variation will also give effect to Objective ECO 5-5 of the Kerry County Development Plan 2003 - 2009 which states: 'It is an objective of Kerry County Council to identify lands in key strategic locations that are particularly suitable for development that may be required by specific sectors. Land in such locations will form part of a strategic reserve that will be protected from inappropriate development that would prejudice its long-term development for these uses'.

3.0 Public Consultation

In accordance with Section 13 (2) of the Planning and Development Act 2000 (as amended) notice of the proposed variation was published in the local papers inviting observations and submissions. Copies of the variation were put on display from the 2nd February to the 8th of March 2007.

4.0 Statutory Bodies

Under Section 13 (2) of the Planning and Development Act 2000 (as amended) the planning authority is required to consult the prescribed authorities listed under Part 3 Section 13 of the Planning and Development regulations 2001 (as amended).

5.0 Submissions Received

Written Submission No. 1 – No. 4

**An Bord Pleanála.
Department of Education
and Science.
Department of the
Environment, Heritage and
Local Government.
Office of the Minister for
Agriculture and Food.**

Submission

No observations on the proposed variation.

Written Submission No. 5

**Catherine McMullen, An
Taisce, Kerry Association,
5 Glenashe, Killorglin,
County Kerry.**

This submission raises the following issues –

1. The proposed zoning is appropriate for the majority but not all of the lands. The submission proposes that half of the lands currently zoned as Secondary Special Amenity should be retained for amenity uses such as walking and recreation to meet the needs of local people.
2. Positioning amenity lands at either end of the land bank would provide a buffer between houses in the vicinity of the industrial site and the site itself.
3. Public access to the shore line should be maintained particularly in view of the likely loss of public access to Kilcolgan Strand from the public road following the development of the site.
4. Sufficient land should be zoned residential in Tarbert and Ballylongford to meet the housing requirements of any workforce.

Response

1. An extensive area of land to the west of the site is designated as Secondary Special Amenity and includes a walking route to Carrig Island. It is considered therefore, that sufficient natural amenity lands have been reserved. The adopted Tarbert Local Area Plan makes adequate provision for the amenity requirements

of the village. In addition, a draft local area plan for Ballylongford is in the process of being prepared and will make provision for amenity uses to serve the towns catchment area.

2. The impact of development on the residential amenity of houses in the vicinity of zoned industrial lands will be dealt with at the planning application stage.
3. It is recognised that industrial and public amenity uses are incompatible due to reasons of health, safety and utility. Extensive foreshore lands from Richards Rock to Reenturk Point are however, excluded from the proposed industrial zoning and remain designated as Secondary Special Amenity.
4. The adopted Tarbert Local Area Plan makes adequate provision for an increase in demand for residential development. In addition, a draft local area plan for Ballylongford is in the process of being prepared and sufficient land will be zoned to cater for increased demand.

Written Submission No.6

**Clare County Council
New Road,
Ennis
Co. Clare**

The submission makes the following points:

The proposed rezoning is likely to have a significant impact on the future development of the Region, and will have a direct impact on the planned objectives for the Mid West Regional Guidelines for the Shannon Estuary and in particular the Planning, Economic and Service Infrastructural development objectives for zone 5 of the plan.

Any industrial development including the construction of a deepwater harbour will have a major impact on both the visual and ecological amenities of the area, and potentially on the whole lower Shannon estuarine environment, including the foreshore of County Clare. Clare County Council would like an appraisal of any SEA investigation which may have been undertaken in respect of the proposed variation.

Response

Any future application on these lands will be subject of an Environmental Impact Assessment. This process will ensure that any proposals will take into account impacts on the visual and ecological amenities of the area. A copy of the SEA screening report for the proposed variation will be forwarded to Clare County Council.

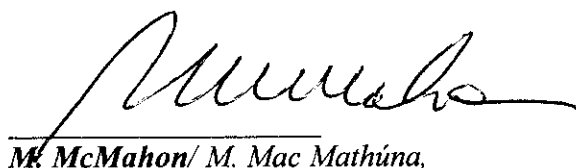
The lands subject of this variation have been in the ownership of Shannon Development for a number of years. While the text of the County Development Plan 2003-2009

facilitated industrial development on the land, the relevant zoning map did not reflect this objective. This variation will regularise the zoning maps with the text of the Plan. It is considered therefore that the proposed variation will not alter or impact to any additional extent on the objectives of the Mid West Regional Planning Guidelines.

6.0 Recommendation

Having considered the submissions received it is recommended that the variation to rezone 188.8ha (466.53 acres) of land, comprising 105ha (261.43 acres) currently zoned as Rural General and 83ha (205.1 acres) currently zoned as Secondary Special Amenity, in the townlands of Reenturk, Rallappane and Kilcolgan Lower, to Industrial zoning is adopted.

Signed:



M. McMahon/ M. Mac Mathúna,

Director of Services/Stiúrthóir Seirbhíse,

Planning & Sustainable Development/Pleanáil Agus Forbairt Inbhuanaithe

Date: 8/3/07

OMBUDSMAN ATTACHMENT

3. Minutes of March 12th Meeting of Kerry County Council

**MINUTES OF THE ORDINARY MEETING OF KERRY COUNTY COUNCIL
HELD IN THE COUNCIL CHAMBER, ÁRAS AN CHONTAE, TRALEE ON
MONDAY 12TH MARCH, 2007.**

***MIONTUAIRISCÍ NA CRUINNITHE MHIOSIÚIL DE COMHAIRLE
CONTAE CHIARRAÍ A THIONÓLADH I SEOMRA NA COMHAIRLE, ÁRAS
AN CHONTAE, TRÁ LÍ, AR AN LUAN, 12 MÁRTA, 2007.***

PRESENT/I LÁTHAIR

Councillors/Comhairleoirí

R. Beasley	J. Brassil	T. Buckley
M. Cahill	M. Connor-Scarteen	B. Cronin
T. Ferris	S. Fitzgerald	T. Fitzgerald
N. Foley	M. Gleeson	D. Healy-Rae
M. Healy-Rae	P. Leahy	P. McCarthy
A. McEllistrim	C. Miller	T. O'Brien
B. O'Connell	J. O'Connor	N. O'Sullivan
L. Purtill	T. Sheahan	

IN ATTENDANCE/I LÁTHAIR

Mr. T. Curran, Co. Manager	Mr. J. O'Connor, Head of Finance
Mr. M. McMahon, Director of Planning	Mr. O. Ring, Dir of Water Services
Mr. J. Breen, Dir. of Housing	Mr. P. Stack, A/Dir. Rds., & Trans.
Mr. B. Sweeney, A/Dir. Of Environment	Mr. C. O'Sullivan, SEO Corp. Affairs
Mr. T. Sheehy, SE Planning	Mr. D. Murphy, SEE Planning
Mr. F. Hartnett, A/SE Roads & Transp.	Mr. P. Corkery, Press & Comm. Officer
Ms. B. Reidy, S.S.O. Corp. Affairs	Ms. M. Gleeson, C.O. Corporate Affairs
Ms. A. O'Sullivan, CO Corporate Affairs	

The meeting commenced at 10.50am.

The Mayor, Cllr. T. Fitzgerald, took the Chair.

At the outset the Mayor welcomed the Kerry Education Service students present in the public gallery to the meeting.

Vote of Sympathy

Cllr. M. Gleeson PROPOSED a vote of sympathy to Garda Andy McCabe on the death of his wife and baby daughter. He added that the heading in the Sunday Independent that weekend was scurrilous as it made the link between Garda McCabe and the tragic events at Abbeylara. This was both wrong and immoral and he unreservedly condemned it. He added that the Carty Family was also upset at the linkage of the two events when they had nothing in common.

Cllr. R. Beasley SECONDED this vote of sympathy and stated that the article in the Sunday Independent was scurrilous.

Minutes of March 2007 Council Meeting

The Mayor requested that a letter be forwarded to the Editor of the Sunday Independent expressing the strong views of the members on this issue.

Alternative entrance to Kerry General Hospital

Mayor T. Fitzgerald informed the meeting that he lived close to Kerry General Hospital he was conscious of the large volumes of traffic passing the entrance to the hospital on the way to and from Manor. He called for the provision of another entrance by the HSE to cater for emergencies. He requested that a letter be forwarded to the HSE calling on them to provide a second entrance to the hospital.

Cllr. M. Healy-Rae supported this request.

Vote of Congratulations

Cllr. M. Gleeson congratulated Ardfert Intermediate Football team on winning the All Ireland Final.

The Mayor stated that all members would like to be associated with this vote of congratulations as it was a great achievement for Ardfert. He added that Duagh also did the county proud in their final and he hoped that Dr. Crokes would be successful at Croke Park in the All Ireland Club Championship Final on St. Patrick's Day.

Cllr. T. Ferris also congratulated Ardfert on winning the All Ireland Intermediate Final and PROPOSED that Kerry County Council host a Civic Reception to honour their achievement.

Cllr. N. Foley SECONDED this proposal.

Cllr. R. Beasley also supported the proposal.

07.03.12.01 Mayor's Report on the CPG Meeting held on the 8th March, 2007.

Mayor T. Fitzgerald read the following report into the record of the meeting:-

1. Agenda for March Council Meeting

Mr. C. O'Sullivan briefed the meeting on the agenda for the March meeting.

2. County Development Board

Mr. J. Breen said that the work of the CDB is focussed on priority actions. It is important that all agencies on the CDB would begin to take responsibility for actions to be taken otherwise it will be left to Kerry County Council. If this happens there will be no benefit for the council in being on the CDB.

3. Update on the National Spatial Strategy

Mr. M. McMahon informed the meeting that the second round of public consultation on the Environs Plan for Tralee and Killarney is taking place and a special meeting of the council will be held on the 2nd April to consider submissions received. It is hoped that this plan together with the Local Area Plan for Farranfore will be adopted at that meeting.

Mr. McMahon also informed the meeting that the Chambers of Commerce in Tralee and Killarney had held public meetings concerning the National Spatial Strategy following which they sought meetings with Minister John O'Donoghue and the Government regarding the benefits to Kerry arising out of the NSS.

Mayor T. Fitzgerald said that approx. 2½ years ago the members of Kerry County Council debated the NSS at length and agreed to put forward Tralee and Killarney for gateway status. He said that he was surprised at the public meetings now being held by the Chambers of Commerce as the NSS was published a number of years ago.

Mr. M. McMahon informed the meeting that the NSS was published in 2002. The members of Kerry County Council considered it in detail and subsequently accepted the decision of Government that Tralee/Killarney got Hub status. A Steering Group was established to oversee the preparation of a series of area plans and this work is progressing.

Cllr. J. O'Connor stated that Kerry County Council should continue to lobby Government for Gateway status for the Tralee/Killarney area.

4. Update from the Chairs of the SPC's.

Environment SPC

Cllr. J. O'Connor informed the meeting that the Environment SPC discussed the proposed new SAC designated areas and they subsequently requested that the closing date for receipt of submissions be extended. However, the NPWS have indicated that this is not possible. He asked that the full council call on the Minister to extend this deadline. The SPC is also considering the issue of responsibility for the maintenance of rivers and there are four bodies involved i.e. Kerry County Council, OPW, NPWS and the Fisheries Boards. It is hoped to compile a booklet which would inform landowners and the general public who to contact on this issue.

Mr. J. Flynn stated that this is a complex area and it may be more appropriate to focus on the areas of responsibility of Kerry County Council.

Planning SPC

Cllr. B. Cronin informed the meeting that the principal issue being considered by the Planning SPC is the Telecommunications Policy. Representatives of the mobile phone companies have been requested on a number of occasions to agree a date for a meeting with the SPC but to-date they have not suggested a date. The SPC is anxious to be in a position to make a recommendation to full council as soon as possible.

Mr. J. Flynn suggested that the mobile phone companies be informed that the SPC will report to the May Council meeting and that they would have until then to make their presentation to the SPC. If they do not meet with the SPC a report would be brought to the May meeting.

Minutes of March 2007 Council Meeting

Mr. J. Breen informed the meeting that if the roll out of wireless broadband is to be successful masts will be required.

Cllrs. M. O'Shea and R. Beasley stated that they would report on the activities of their SPC's at the April CPG meeting.

6. Report to full Council by the Chairs of SPC's.

This matter was discussed in detail and it was agreed that in order to give these reports the importance and attention they deserve one or two reports per month would be included on the agenda for the full council meeting.

The Mayor suggested that these reports would focus on one or at most two issues.

7. Criteria for the placing of area specific motion on the agenda for full Council meetings.

All members asked that a common sense approach be adopted to this issue and if possible area specific motions should not be on the agenda for full council meetings.

It was pointed out by some members that issues can arise which require urgent attention.

Mr. J. Flynn asked members that urgent issues be brought to his attention and he would endeavour to have them attended to if possible.

Mr. J. O'Connor, Head of Finance, stated that for the past several years senior staff have been attending Area Meetings to deal with issues and notices of motion. Management advocate that the Area Meetings have an important role to play and it is important to free up the time of full council meetings to deal with other issues.

8. Supplement on Kerry County Council in the local papers

Mr. J. Flynn circulated a copy of the supplement which was circulated with local papers recently and asked members for feedback. It is intended to produce this supplement every 6 months and the next issue would be in July.

All members complimented Mr. Flynn on this excellent publication which sets out for the general public some of the activities of the Council.

9. Update on the acquisition of land

Mr. J. Breen informed the meeting that in the past month 2½ acres have been acquired.

Cllr. J. O'Connor stated that in view of the recent designations and the affect they will have on farmers Mr. B. Sweeney, A/Director of Environment, wrote to the NPWS requesting an extension of the date for receipt of appeals. Nationally in excess of 700 appeals have been

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submitted. He PROPOSED that a letter be forwarded to the NPWS again requesting that the closing date for receipt of appeals be extended.

Mayor T. Fitzgerald SECONDED this proposal and it was agreed.

07.03.12.02 Confirmation of Minutes

- (a) On the PROPOSAL of Cllr. N. O'Sullivan, SECONDED by Cllr. P. Leahy, it was resolved that the minutes of the Budget Meeting of Kerry County Council held on the 8th January, 2007 be confirmed.
- (b) On the PROPOSAL of Cllr. M. Healy Rae, SECONDED by Cllr. N. O'Sullivan, it was resolved that the minutes of the Adjourned Budget Meeting of Kerry County Council held on the 15th January, 2007 be confirmed.
- (c) On the PROPOSAL of Cllr. N. Foley, SECONDED by Cllr. M. Healy-Rae, it was resolved that the minutes of the Ordinary Meeting of Kerry County Council held on the 19th February, 2007 be confirmed.

07.03.12.03 Disposal of Property

- (a) On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. M. Healy-Rae, it was agreed to approve the disposal of a plot of land measuring 0.089 acres approximately at Inchinaleega West, Sneem to Sneem Welfare Committee Limited, Sneem in accordance with the terms of notice issued 27th February, 2007 pursuant to Section 183 of the Local Government Act, 2001.
- (b) On the PROPOSAL of Cllr. P. Leahy, SECONDED by Cllr. N. Foley, it was agreed to approve the leasing of a kiosk at Ballybunion to Patrick Coyle and Patricia McGrath, Lixnaw in accordance with the terms of notice issued 27th February, 2007 pursuant to Section 183 of the Local Government Act, 2001.

07.03.12.04 Report in accordance with Section 179(3) of the Planning and Development Act, 2000.

On the PROPOSAL of Cllr. M. Gleeson, SECONDED by Cllr. T. O'Brien, it was agreed to note the proposed development and the Manager's Report thereon in accordance with Section 179(3) of the Planning and Development Act, 2000 and Part VIII of the Local Government (Planning and Development) Regulations 2001 in respect of the construction of a local authority house at Boolteens East, Castlemaine.

07.03.12.05 Draft Supplementary Development Contribution Scheme for An Daingean Relief Road and associated Coach Park.

Mr. M. McMahon, Director of Planning, referred members to his report dated 8th March, 2007 on this item which was circulated and he briefed them in detail on the report. He informed the meeting that the Draft Supplementary Development Contribution Scheme for An Daingean Relief Road & Associated Coach Park was placed on public display from 24th January, 2007 to 8th March, 2007 and submissions or observations were invited. The report now before the members for consideration outlines the two submissions received and he stated that both submissions have been taken into account. The purpose of the Supplementary Development Contribution Scheme is to fund the construction of the An Daingean Relief Road and the associated Coach Park and if this road and coach park are not provided it will hinder the development of An Daingean. He added that there is broad support for this Scheme.

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Cllr. S. Fitzgerald thanked Mr. T. Sheehy and Mr. D. Murphy of Forward Planning for their work on this worthwhile Scheme. He asked if a section of the road is provided by a developer in accordance with a planning condition would this be deducted from the estimated overall cost of €17.5m and he requested that a report on levies received be presented to the members annually.

Mr. M. McMahon, Director of Planning, confirmed that if a section of the road is provided by a developer the cost involved would be deducted from the overall cost. He added that it would be necessary to follow the Part VIII procedure for the road scheme and it would be developed in stages depending on the level of activity by developers. Kerry County Council will borrow for this project and the development levies received will be used to repay the loan. He confirmed that an annual report would be presented to members on this scheme.

Cllr. S. Fitzgerald PROPOSED that this Council having considered the County Manager's Report on submissions received approves the making of the Supplementary Development Contribution Scheme for An Daingean Relief Road and associated Coach Park pursuant to Section 49 of the Planning and Development Act, 2000.

Cllr. R. Beasley SECONDED this proposal.

A vote was taken on this resolution which resulted as follows:

For: Cllrs. Beasley, Brassil, Buckley, Cronin, S. Fitzgerald, Foley, Gleeson, D. Healy-Rae, Leahy, McCarthy, McEllistrim, O'Brien, O'Sullivan, Purtill, T. Fitzgerald **(15)**

Against: None **(0)**

Not Voting: Cllrs. Ferris, M. Healy-Rae, O'Connor **(3)**

The Mayor declared the resolution carried.

07.03.12.06 Proposed variation No. 7 of the County Development Plan 2003-2009

Mr. M. McMahon, Director of Planning, referred members to his report on this item which was circulated and he briefed them on the report.

Cllr. N. O'Sullivan PROPOSED that this Council having considered the County Manager's Report on submissions received in relation to proposed Variation No. 7 of the Kerry County Development Plan 2003 – 2009 in respect of lands in the townlands of Reenturk, Rallappane and Kilcolgan Lower (Ballylongford) approves the making of this variation to the Kerry County Development Plan 2003 – 2009 pursuant to Section 13 of the Planning and Development Act, 2000.

Cllr. R. Beasley SECONDED this proposal.

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A vote was taken which resulted as follows:-

For: Cllrs. Beasley, Brassil, Buckley, Cronin, Ferris, S. Fitzgerald, Foley, Gleeson, M. Healy-Rae, Leahy, McCarthy, McEllistram, Miller, O'Sullivan, Purtill, T. Fitzgerald **(16)**

Against: None **(0)**

Not Voting: None **(0)**

Absent: Cllrs. Cahill, Connor-Scarteen, Fleming, D. Healy-Rae, MacGearailt, O'Brien, O'Connell, O'Connor, O'Donoghue, O'Shea and Sheahan **(11)**

The Mayor declared the resolution carried.

07.03.12.07 Nominee to attend the Eighty-first Ordinary General Meeting of IPBMI Ltd.

Mr. C. O'Sullivan, SEO, referred members to the correspondence received from Irish Public Bodies Mutual Insurances Ltd. which was circulated.

Cllr. J. Brassil PROPOSED that Cllr. M. O'Shea be nominated to attend the Eighty-first Ordinary Meeting of Irish Public Bodies Mutual Insurances Ltd.

Cllr. N. Foley SECONDED this proposal.

Cllr. T. Buckley PROPOSED that Cllr. P. McCarthy be nominated to attend the Eighty-first Ordinary Meeting of Irish Public Bodies Mutual Insurances Ltd.

Cllr. L. Purtill SECONDED this proposal.

A vote was taken which resulted as follows:-

For Cllr. O'Shea: Cllrs. Beasley, Brassil, Ferris, Foley, M. Healy-Rae, McEllistram, Miller, O'Sullivan, T. Fitzgerald **(9)**

For Cllr. McCarthy: Cllrs. Buckley, Cronin, S. Fitzgerald, Gleeson, Leahy, McCarthy, O'Connor, Purtill **(8)**

Not Voting: None **(0)**

The Mayor declared Cllr. M. O'Shea to be Kerry County Council's nominee to attend the Eighty-first Ordinary Meeting of Irish Public Bodies Mutual Insurances Ltd.

Vote of Congratulations

Cllr. R. Beasley congratulated Cllr. A. McEllistram on the birth of her son.

All members indicated that they wished to be associated with this vote of congratulations.

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07.03.12.08 Report on the operations and activities of Tuatha Chiarraí

Cllr. N. Foley requested that this item be deferred to the April meeting.

This was agreed.

07.03.12.09 Summary of proceedings at Conferences

As none of the members nominated to report on the conferences listed on the agenda were present it was agreed to defer this item to the April meeting.

07.03.12.10 Dates for the next round of Electoral Area Meetings

It was agreed that the next round of Electoral Area Meetings would be held as follows:-

Area	Date	Venue	Time
Killarney	Wed. 18 th April	Town Hall, Killarney	10.00am
Listowel	Mon. 23 rd April	Áras an Phiarsaigh, Listowel	10.00am
Tralee	Mon. 23 rd April	Council Chambers	3.00pm
An Daingean	Wed. 25 th April	Dingle Area Offices	10.30am

Following a debate on the date for the holding of the Killorglin Electoral Area Meeting it was agreed to defer a decision until later when all members for the Killorglin Area were present.

List of Notices of Motion provided to members for Council Meetings

Cllr. N. O'Sullivan requested that members be provided with a list of the notices of motion in hard copy for all future council meetings.

07.03.12.11 Reception of Deputations

- (a) Cllr. P. O'Donoghue requested that a deputation be received from the Portmagee Development Association regarding difficulties with Valentia Bridge. It was agreed that this deputation would be received at the next Killorglin Electoral Area Meeting.
- (b) Cllr. J. O'Connor requested that a deputation be received from the Residents of Sunhill, Killorglin regarding the Douglas Road. It was agreed that this deputation would be received at the next Killorglin Electoral Area Meeting.
- (c) Cllr. M. Healy-Rae requested that a deputation be received from the Residents of Killarney Road, Kenmare regarding traffic calming measures. It was agreed that this deputation would be received at the next Killorglin Electoral Area Meeting.
- (d) Cllr. L. Purtill requested that a deputation be received from Tarbert Development Association. It was agreed that this deputation would be received at the next Listowel Electoral Area Meeting.

07.03.12.12 Approval for the opening of Tenders

On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. S. Fitzgerald, it was agreed to approve the opening of the following tenders:-

- (a) Kenmare Water Supply Scheme – DBO
- (b) Waterville Water & Sewerage Scheme – DBO
- (c) Fieries Sewerage Scheme – DBO
- (d) Barraduff Sewerage Scheme – DBO
- (e) Milltown Sewerage Scheme – DBO
- (f) N86 Derrymore Bridge Widening and Lispole Bridge Deck Widening and Replacement
- (g) Bituminous Overlay Requirements – Kerry County Council 2007 Roadworks Programme

07.03.12.13 Notices of Motion

2. Support for victims of serious crime

Pursuant to notice duly given Cllr. B. Cronin PROPOSED:

"That this Council support victims of serious crime and condemn the practice by TD's and Government Ministers of making representations on behalf of prisoners convicted of murder, rape and serious drug offences"

Mr. C. O'Sullivan, SEO, stated that this is a matter for consideration by the members.

Cllr. B. Cronin stated that this issue arose from the recent case in Clare where a Government Minister made representations on behalf of a person convicted of murder. He added that he believed that this practice is widespread but he stated that all public representatives should stand side by side with victims of crime. He called on all candidates in the forthcoming general election together with all sitting TD's to declare if they have made such representations in the past and also not to make representations on behalf of those convicted of serious crime in the future. He called for a public commitment from all potential candidates in the forthcoming election that they would not make such representations and that they would support victims of crime.

Cllr. M. Gleeson supported the motion which he stated was valid as the Oireachtas members who make representations are also responsible for adopting the legislation. It is, therefore, a contradiction that those responsible for adopting the legislation would request that their own rules would be overturned.

Mayor T. Fitzgerald supported the motion and requested that a letter outlining the views of the members be forwarded to all candidates in the forthcoming General Election.

3. 90th Anniversary of the late Thomás Ashe

Pursuant to notice duly given Cllr. M. O'Shea PROPOSED:

"The 90th anniversary of the late Thomás Ashe will take place on September 25th of this year. Have Kerry County Council any plans to commemorate such a historic event"

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Mr. C. O'Sullivan, SEO, read the following report:-

This is a matter which can be considered by the Community, Culture and Tourism Strategic Policy Committee of the Council, together with input from the local studies section of Kerry County Council Library Service. Any proposals for such a commemoration will be considered in due course.

Cllr. M. O'Shea welcomed the report and stated that he hoped that the Community, Culture and Tourism SPC would liaise with Lispolle National School on this project.

Cllr. T. Ferris supported the motion.

4. Accessibility of Currán Tuathail

Pursuant to notice duly given Cllr. M. Gleeson PROPOSED:

"In view of Currán Tuathail's status as Ireland's highest mountain, its attractiveness as a destination for mountaineers and its economic importance to the County, that this Council calls on Rialtas na hÉireann to make available the funding necessary to make the mountain more readily accessible and its ascent/descent safer"

Mr. C. O'Sullivan, SEO, said that this is a matter for consideration by the members.

Cllr. M. Gleeson expressed his disappointment with the reply as he understood that Kerry County Council in conjunction with the Department of Arts, Sport and Tourism was preparing plans to facilitate the intent of the motion. He did not intend that sleepers, like those at Torc Waterfall, would be put in place but he had hoped that a river crossing would be provided near the car park. Some climbers are reluctant to climb the Devil's Ladder because of the amount of loose stone on the path and this should also be addressed. He was simply requesting that adequate safety measures be put in place.

Mayor T. Fitzgerald supported the motion.

Mr. T. Curran, County Manager, informed the meeting that the reason that a substantial reply was not provided was because the motion called on Rialtas na hÉireann to make funding available. A submission was made to Fáilte Ireland for funding to improve the access to the Devil's Ladder. Kerry County Council has taken in charge the access to Carrauntoohill at Lisliebane and additional car parking will be provided. The provision of a bridge to cross the river is a planning issue. With regard to the removal of the loose stone on the path to the Devil's Ladder the expertise of a Scottish Company was engaged but the biggest issue is to get the agreement of all the landowners involved and to-date this has not been possible. For this reason the project is at a stand still.

Cllr. M. Gleeson called on the County Manager to reactivate this project prior to the General Election.

Cllr. J. O'Connor congratulated Beaufort Community Council on contributing to the acquisition of the land for a car park. He PROPOSED that a letter of thanks be forwarded to them.

Cllr. M. Gleeson SECONDED this proposal and it was agreed.

Cllr. D. Healy-Rae informed the meeting that he was withdrawing Notice of Motion No. 5.

6. Criteria for percolation tests etc.

Pursuant to notice duly given Cllr. J. P. O'Connor PROPOSED:

"That this Council arrange a presentation for all elected members on the criteria for percolation tests and other environmental criteria i.e. the treatment of effluent and wastewater that must be adhered to in order to achieve the standards required so that planning permission can be granted in rural areas. This presentation should be provided by the Kerry County Council Environment Department and other independent consultants"

Mr. C. O'Sullivan, SEO, read the following report:-

Percolation Tests for proposed wastewater treatment systems are carried out in accordance with the guidelines in the EPA Wastewater Treatment Manual. These guidelines are currently being reviewed by the EPA and it is expected that revised guidelines will be issued to local authorities in May. The revised guidelines will be brought to the Environment SPC for consideration and the need for further presentations can then also be considered.

Cllr. J. O'Connor asked why new guidelines were being introduced if guidelines are already in place. When the new guidelines are issued the various departments should arrange a presentation to brief members and agents. He pointed out that there is a substantial variation in the topography from one area to another and he asked if this was taken into account in assessing planning applications.

Cllr. B. Cronin SECONDED the motion and stated that many applicants have experienced difficulties with percolation tests and results. He was concerned that permission is being granted for 3 or 4 houses while family members are being refused. He acknowledged that percolation tests and results must be satisfactory in order to protect the environment but he added that there are a number of companies who provide successful sewerage treatment facilities. He added that applicants have been requested to re-open trial holes and if the weather happens to be very wet the results can be different. He agreed with Cllr. O'Connor that a presentation should be made to members and agents when the new guidelines are issued.

Cllr. M. Connor-Scarteen also supported the motion and added that permission is also being refused on the grounds that the proposed development would be visible from the Ring of Kerry Road despite the fact that the proposed site would be 3 miles from the Ring of Kerry road.

Cllr. P. McCarthy concurred with the sentiments expressed by other members and said that there is an extraordinary level of ignorance regarding percolation tests. In many instances planning staff are blamed because the proper procedure is not followed and if applicants were advised to move to another part of the site they may achieve satisfactory results. The general public must be educated on this very important issue.

Cllr. D. Healy-Rae said that he understood that agents are submitting planning applications with failed percolation tests and this is very unfair on the applicants.

Mr. T. Curran, County Manager, informed the meeting that when the new guidelines are issued they would be considered by the Planning SPC and they could recommend that the full council be briefed on them.

7. Preservation of the tower at Rossbeigh Spit

Pursuant to notice duly given Cllr. M. Cahill PROPOSED:

"That Kerry County Council call on the Department of Communications, Marine and Natural Resources to carry out emergency works so as to preserve the famous landmark tower at the end of Rossbeigh Spit"

Mr. C. O'Sullivan stated that this is a matter for consideration by the members.

Cllr. M. Cahill stated that this is a unique landmark which was tilting over a number of years ago. At that time no state body would take responsibility for it and at his request boulders were put in place to support it. He called on Kerry County Council to liaise with the Department of Communications, Marine and Natural Resources to ensure that this landmark is secured before it is too late.

Cllr. M. Healy-Rae supported the motion.

Cllr. J. O'Connor also supported the motion and requested that it receive immediate attention.

8. Development of a bio fuel production facility.

Pursuant to notice duly given Cllr. T. Ferris PROPOSED:

"That this Council, through its participation on the County Development Board, would explore the possibility of developing a bio fuel production facility to provide an alternative industry to the Kerry farming community following losses to that community such as the sugar beet industry etc"

Mr. C. O'Sullivan, SEO, read the following report:-

The County Enterprise Board has established a special agricultural task group to develop strategies to support full time and part time farmers. The inaugural meeting of this group was held on the 16th February last. The group will, in the context of the consideration of sustainable energy options, consider the exploratory task suggested in the motion. The County Development Board is also organizing for an expert in bio fuel technology to brief the Board at the next scheduled meeting in March.

Cllr. T. Ferris welcomed the establishment of the agricultural task group and said that the growing of bio fuels would be of particular benefit to farmers in North Kerry many of whom had produced large amounts of sugar beet until recently.

9. Funding for the provision of sheltered housing in Kenmare.

Pursuant to notice duly given Cllr. M. Connor-Scarteen PROPOSED:

"That we the members of Kerry County Council urgently request the Minister for the Environment, Heritage and Local Government to grant funding to Kerry County Council and CARA for the provision of a sheltered housing scheme in Kenmare, Co Kerry which has been promised and long overdue"

Mr. C. O'Sullivan, SEO, read the following report:-

The above scheme went to tender in late 2006. The tender report was submitted to the Department of the Environment, Heritage & Local Government in early January 2007 and further documentation was submitted on 27th February 2007. Following subsequent discussions with the Department of the Environment, Heritage & Local Government personnel it is expected that funding for this scheme will be approved in the in the very near future.

Cllr. M. Connor-Scarteen welcomed the report and said that this is a very important scheme for Kenmare which would provide 38 units of accommodation. He requested the Housing Department to keep in regular contact with the Department with a view to securing funding for this project as soon as possible.

Cllr. M. Healy-Rae SECONDED the motion.

10. Number of sewerage schemes to be commenced in 2007.

Pursuant to notice duly given Cllr. M. O'Shea PROPOSED:

"To ask the County Engineer how many sewerage schemes will start in the county during 2007"

Mr. C. O'Sullivan, SEO, read the following report:-

Construction will commence on the following schemes in 2007.

•	Fieries SS	Contract signed 30 th January
•	Milltown SS	Contract signing 20 th February
•	Barraduff SS	Contract signing 20 th February
•	Kilcummin SS	Contract signing 20 th February
•	Waterville SS	Contract signing 2nd March
•	Sneem SS	Contract signing April

In addition, the Council has engaged Consultants to carry out the design of a number of other schemes which the Council is proposing to fast track having regard to development pressure in these areas. These villages include Abbeydorney, Ardfer, Caberdaniel, Castlemaine, Fenit, Kilflynn, Lixnaw, Tarbert, Castlegregory, Ballylongford, Finuge and Kilgarvan. In parallel with the design, site investigations will be carried out and suitable sites for treatment plants are being identified for acquisition. Subject to site investigations results, planning and success in acquiring the necessary lands, the Council is aiming to go to tender on these schemes by the end of the year or early in 2008.

Cllr. M. O'Shea welcomed the report but stated some villages such as Boolteens are not mentioned in the list despite the fact that there is no sewerage scheme there. He requested

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that priority be given to providing a sewerage scheme for Boolteens as it is a health hazard at present.

In response Mr. O. Ring, Director of Water Services, stated that the Council commissioned a Preliminary Report for 28 villages including Boolteens. When this Report is ready it will be forwarded to the Department for funding. It would not be possible to provide any form of treatment in Boolteens until a proper scheme is provided.

11. Surface dressing at junctions with minor roads

Pursuant to notice duly given Cllr. M. Gleeson PROPOSED:

"That the Council when surface dressing a minor road on its approach to a junction would provide a different colour overlay on the final 10 metres of the road as an additional indication/warning to motorists that they are approaching a major road and must stop safely"

Mr. C. O'Sullivan, SEO, read the following report:-

In practical terms it would not be feasible to alter the colour of the surfacing close to junctions as the effect is achieved by changing the colour of the chips which would increase costs significantly with limited effect as it would not be seen at night.

The layout, markings and warning signage currently applied to junctions in the County comply with the specifications as set out in the Traffic Signs Manual by the Dept of Environment, Heritage and Local Government and it is proposed to continuously upgrade signage and road markings.

Cllr. M. Gleeson stated that many motorists experience difficulties with traffic exiting junctions. Nationally road signage should be reviewed. He added that there is a proliferation of signage from the bottom of Pike Hill to his own house and it is impossible for a motorist to read all the signs while driving safely. He acknowledged that it would be more expensive to use a different colour overlay on the final 10 meters of the road to the junction with the main road but it would highlight the need to slow down to motorists. It may be worthwhile to examine this idea at a national level.

Cllr. P. McCarthy supported the motion and said that this means of highlighting a junction is very effective and in the North of Ireland it is used very effectively. When a motorist sees the different colour surface they automatically slow down and there is less need for signage. He added that Cork County Council is already incorporating this practice in their road programme.

Cllr. T. Fitzgerald also supported the motion.

Mr. P. Stack, A/Director of Roads and Transportation, stated that anything that improves road safety would be considered. He acknowledged that Cork County Council used this type of surface in Ballyvourney and it is a high skid resistance surface. This surface was used in Listry but it is extremely expensive and would cost as much as ½kilometer of road. If this surface was used it would have to be provided at all junctions as motorists would expect it. However, consideration would be given to this option in the future.

Introduction of the white tailed eagle to Kerry

Cllr. M. Healy-Rae stated that there is major concern among the farming community regarding the introduction of the white tailed eagle to Kerry. Many sheep farmers are already under pressure and it would be wrong to introduce the eagle. Many sheep farmers have had inspections of their flocks and this is very unusual at this time of year as many sheep are heavy in lamb. In conclusion he stated that it is more important to look after farmers than to introduce the eagle to Kerry.

Cllr. M. Gleeson stated that he had called for the reintroduction of the white tailed eagle to Killarney National Park, which is large and capable of supporting the eagles. Killarney Town Council provided €10,000 in the Budget to support this project. Tourism is the lifeblood of Killarney in conjunction with farming. Any project that will enhance our tourism industry should be welcomed and the introduction of the white tailed eagle will attract thousands of tourists to the county. Glenveigh National Park introduced eagles to the Park and it has attracted many tourists to the greater Donegal area. He acknowledged that the eagle may take the occasional lamb but it is usually a sick and weak lamb that is taken. He stated that he was from a farming community and he was satisfied that the farmers of Kerry would not begrudge the reintroduction of the white tailed eagle to Killarney National Park. During a recent visit to Killarney both the Taoiseach and Minister O'Donoghue signed a request to have the white tailed eagle reintroduced to Killarney National Park.

Cllr. J. O'Connor stated that farmers had to bring down their sheep from the hills to ensure they are not overgrazing the hills. He added that the Department of Agriculture and Food had used a helicopter for this purpose and he asked what was the cost involved. It would be more reasonable to do these inspections later in the year. He said that he understood that while the eagle would be released in Killarney National Park it would move towards the sea. He had asked an environmentalist about the impact of the reintroduction of the eagle to Killarney and he stated that it was suspect why the eagle died off in Ireland originally and it would be years before the effect will be known.

Cllr. B. Cronin said that he would be cautious in making a decision on this issue without being fully informed. He also stated that marauding dogs also kill sheep and lambs.

Following further debate it was agreed that this item would be considered at the April Meeting when all the facts would be presented to members.

12. Road safety measures at junctions in the Killarney area.

Pursuant to notice duly given Cllr. D. Healy-Rae PROPOSED:

"To ask the N.R.A. and the Roads & Transportation section of Kerry County Council to make a real attempt to assist in road safety in the Killarney Area i.e. Junction off Lewis Road and bypass, Lissivigeen Junction off N71 and N22, Poulagorm Bridge Junction, Madams Hill Junction with N22, Shinnagh Cross, Rathmore, Farranfore Village Junction for Firies & Currow, Woodlawn Road Junction to the N22 and many other dangerous locations"

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Mr. C. O'Sullivan, SEO, read the following report:-

Junction of Lewis Road and N22 Killarney By-Pass

A traffic calming scheme was completed at this junction in 2005 in conjunction with the pavement overlay of the By-Pass. A reduction in the 100 km/h Speed Limit was recommended by the Speed Limit Review Steering Committee, however this measure was not approved by the National Roads Authority.

Junction of N72 and N22 at Lissivigeen

It has been agreed in principle with the National Roads Authority Inspectorate that a roundabout is required at this location however funding was not received in 2007. A further application for funding will be submitted to the National Roads Authority for funding in 2008.

Poulgorm Bridge Junction

The Roads and Transportation Department will continue to seek funding for further safety measures at this junction including public lighting to highlight the junction at night.

Madams Hill Junction with N22

An application for funding for this junction was submitted to the National Roads Authority for funding under the Safety Measures allocation in 2007. In this context, this junction has been discussed with the National Roads Authority and the Regional Road Safety Officer has examined the accident database that applies to this section of the N22. This examination indicated that there were few if any accidents attributable to the junction, notwithstanding this, the Roads Department will continue to liaise with the National Roads Authority to seek funding for safety measures at the junction.

Shinnagh Cross, Rathmore

An application for funding for a roundabout at this location was submitted to the National Roads Authority however no funding was received and a further application will be submitted for funding in 2008.

Junction of the R561 and N22 at Farranfore Village

This junction is 50 km/h limit in Farranfore. Traffic signals were considered at this junction however the introduction of traffic signals was not supported by traffic count data and would lead to excessive tailbacks on the N22. Enhanced lining and signing was undertaken in 2006.

Woodlawn Road Junction with N22

This junction on the N22 is constructed to a very high standard in a traffic calmed area within the 50 km/h speed limit. It is not considered that any further works are required at present at this location

Cllr. D. Healy-Rae stated that there were a number of accidents at the junction of the Lewis Road and the By-Pass. He acknowledged that traffic-calming measures have been provided at this location but he said that there are more accidents since these were provided. Urgent measures must be taken at this junction before there is fatality there. He then referred to Lissivigeen Cross and stated that the NRA inspector agreed that a roundabout is need at this junction yet the NRA has not provided

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the funding. There have also been a number of accidents at Poulgorm Bridge where he had requested that lighting be provided but this request was refused. He stated that he was recently in Letterkenny and beyond Letterkenny there is a turn off for Convoy and this section of road has public lighting. He also called for the provision of a ghost island at Madams Hill to facilitate traffic turning off the main road. A roundabout is also required at Shinnagh Cross and improvements are urgently needed at the Firies and Currow Junctions at Farranfore. In conclusion he stated that there is no Yield Right of Way sign at Ballybeg Road at Dromulton and he requested that one be provided immediately.

Cllr. M. Healy-Rae SECONDED the motion.

Cllr. M. Connor-Scarteen also supported the motion.

Cllr. B. Cronin also supported the motion and called on the NRA to fund improvements to these junctions immediately.

Mr. P. Stack, A/Director of Roads and Transportation, stated that the Roads Department is also concerned about safety at the junctions outlined in the motion. Over €2m has been allocated to improvements to junctions in 2007. He added that the Council would work with the NRA on this issue but there is an onus on motorists to respect signage at junctions.

Cllr. T. Sheahan called for the preparation of a priority list of junctions to be improved and the provision of an annual allocation to deal with these.

13. Provision of a third lane on major roads in Kerry

Pursuant to notice duly given Cllr. J. P. O'Connor PROPOSED:

"That a few pilot initiatives would be instigated on some of our busy roads that a third laneway would be put in for a half of a mile one way and a half of a mile the other way in order to alleviate the traffic pile ups that happen. This system is extremely beneficial in the continent"

Mr. C. O'Sullivan, SEO, read the following report:-

The scheme referred to is termed "two plus one" and is in operation extensively particularly in Sweden. It has been introduced on a number of new and existing roads in Ireland (e.g. Mallow to Cork National Primary Road) as pilot schemes to determine its suitability to Irish conditions.

A study is presently underway to determine the suitability of the scheme to the Killarney/Cork N22 road between Killarney and the County Bounds. There is a difficulty in retro-fitting a 2+1 scheme on an existing road where you have a number of existing entrances. These exits would either have to be closed or diverted onto a service road with controlled access onto the main road.

Cllr. J. O'Connor stated that this is used successfully in Sweden and the Ring of Kerry road is appropriate for it.

Mr. P. Stack, A/Director of Roads, informed the meeting that the Ring of Kerry road is too narrow at many locations for a third lane. It maybe possible on some national primary roads

but he was not satisfied that it would be possible on national secondary roads until they are realigned.

14. Identification of suitable PPP Projects for Kerry

Pursuant to notice duly given Cllr. M. Cahill PROPOSED:

"That Kerry County Council identify suitable public private partnership projects for the county"

Mr. C. O'Sullivan, SEO, read the following report:-

The essence of public private partnership (PPP) projects is that the private sector will do one of the following:-

- i. provide private finance to fund the project;*
- ii. enter into a long term [greater than 5 years] service contract;*
- iii. undertake the design and construction of an asset on the basis of an output specification prepared by the public sector and designed to meet broad performance targets;*
- iv. enter into a joint venture arrangement with the public sector to provide a service or asset.*

Public Private Partnerships can come in different forms but to be successful must provide long term "value for money" for the Council, ensure that environmental and public health and safety standards are maintained; and that the public interest is fully protected. Because of the contractual complexities involved and having regard to the above principles, the use of PPP projects is generally only considered for major infrastructural projects.

All major projects by the Council are considered on their merits as to whether the use of a public private partnership for its delivery is the most appropriate having regard to the above principles.

Cllr. M. Cahill welcomed the report and requested the council to have an open mind on PPP's as it is a good means of progressing projects as the Killorglin Town Centre project has proved. He requested that suitable projects be identified and developers may then express an interest in them.

15. Provision of a bus lay-by and shelter in Farranfore

Pursuant to notice duly given Cllr. B. Cronin PROPOSED:

"What is the current position in regards to the bus lay-by and shelter that I have requested in Farranfore"

Mr. C. O'Sullivan, SEO, read the following report:-

Negotiations are ongoing at present with the owner of the land to agree terms for a lease that will facilitate construction of the bus bay and shelter. Funding is available and construction will commence following successful negotiation of the leasing agreement.

Cllr. B. Cronin welcomed the report but expressed his disappointment that it is taking so long to sort out the leasing arrangements. Many elderly passengers have to wait in bad weather for buses and a bus shelter is urgently required. In conclusion he appealed to management and the landowner to resolve this issue immediately.

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Cllr. M. Gleeson SECONDED the motion.

16. Employment of additional planners.

Pursuant to notice duly given Cllrs. M. Cahill & P. O'Donoghue

"That Kerry County Council employ additional planners so as to clear the pre-planning backlog in the county"

Mr. C. O'Sullivan, SEO, read the following report:-

A number of Planners have now been recruited to return the Planning Staff to full complement of 15.

Due to staff movements in recent months, all staff have been employed in specific geographic areas and there has been no backup to relieve the pressure points.

Each Planner devotes half a day per week to office pre-planning meetings. In addition, on-site preplanning is carried out as time permits subject to work pressures.

When new staff will have been in place for a period, it is anticipated that the backlog will be dealt with.

In 2006, the number of office pre-planning meetings held were 1,962 with an additional 245 on-site meetings held. The average waiting period for an office pre-planning meeting, which is acceptable, is two weeks and for on-site, four weeks. This is being achieved in some areas but not all. It is our goal in 2007 that these waiting periods will apply to all areas, or will be further reduced if possible. It should be noted that Kerry County Council are still the only Planning Authority to offer the on-site consultations to applicants.

Cllr. M. Cahill informed the meeting that this issue was discussed at a recent Killorglin Electoral Area Meeting at which time a detailed report was presented which acknowledged that the Killorglin area is problematic.

Cllr. T. Buckley stated that he was aware of some applicants who are waiting six months for on-site pre-planning meetings. This delay is unacceptable.

Cllr. R. Beasley also supported the motion and concurred with the views expressed by Cllr. Buckley.

Cllr. M. O'Shea stated that it is unacceptable that an applicant must wait six or nine months for an on-site pre-planning meeting. He asked if all planners are co-operating fully with the policy of facilitating these meetings.

Cllr. J. O'Connor stated that if applicants were given the option of a meeting with a planner in the office it would probably be sufficient. If some areas are not experiencing any difficulties the resources should be put into the areas that are experiencing delays. A written agreement should also be provided on what is agreed at a pre-planning meeting.

Cllr. A. McEllistrim requested that even if there is a long delay in getting a pre-planning meeting applicants should be given a date for their meeting with the planner.

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Cllr. B. Cronin asked if the zoning amendment for the Aghadoe storage facility had been withdrawn.

In response Mr. M. McMahon, Director of Planning, said that the reply speaks for itself as the planning department is providing a phenomenal service together with the processing of 5000 planning applications. Two senior executive planners monitor the workload of planners so there is a clear understanding of the workload of all planners which is evenly divided. Each planner also deals with on-site pre-planning meetings in their area and there is a greater demand for these meetings in some areas. Two planners are assigned to relieve the pressure in any particular area. However, due to the fact that some planners have resigned there is no spare capacity at present. He added that there is not always agreement at on-site pre-planning meetings but a written record of the meeting is kept.

Cllr. S. Fitzgerald emphasised the need to agree an account of the on-site pre-planning meeting on the day of the meeting.

Mr. M. McMahon agreed that both parties should sign a written record of on-site planning meetings on the day. He then referred to the proposed rezoning in Aghadoe which was opposed by the executive yet voted through by the members. This amendment was put out on public display and a number of submissions were received. It has not been withdrawn and it cannot be in accordance with planning legislation. This amendment will stand until the elected members consider the Manager's Report on the 2nd April.

07.03.12.14 Correspondence – Conferences and Seminars

- (a) On the PROPOSAL of Cllr. T. Buckley, SECONDED by Cllr. J. Brassil it was agreed to approve the attendance of Cllrs. B. O'Connell, M. Healy-Rae, J. O'Connor and D. Healy-Rae at the Irish Rural Dwellers Association Planning Conference 2007 to be held in Killarney from 18th – 20th April, 2007.

Cllr. J. O'Connor was nominated to report back to the Council on this conference.

- (b) On the PROPOSAL of Cllr. T. Buckley, SECONDED by Cllr. J. Brassil it was agreed to approve the attendance of Cllrs. T. Buckley, L. Purtill and B. MacGearailt at the Southern & Eastern Regional Assembly 8th Annual Regional Assembly Conference to be held in Naas, Co. Kildare on the 20th April, 2007.

Cllr. T. Buckley was nominated to report back to the Council on this conference.

- (c) On the PROPOSAL of Cllr. T. Buckley, SECONDED by Cllr. J. Brassil it was agreed to approve the attendance of Cllrs. B. O'Connell, T. Buckley, T. Fitzgerald, S. Fitzgerald, L. Purtill and J. O'Connor at the Seminar for Councillors on "The Local Government Housing Service" to be held in Letterkenny, Co. Donegal from 27th – 29th April, 2007.

Cllr. B. O'Connell was nominated to report back to the Council on this seminar.

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- (d) On the PROPOSAL of Cllr. T. Buckley, SECONDED by Cllr. J. Brassil it was agreed to approve the attendance of Cllrs. B. O'Connell, T. Fitzgerald, R. Beasley, B. Cronin, P. Leahy and P. McCarthy at the Carlow Tourism 5th National Tourism Conference to be held in Carlow on the 29th & 30th March, 2007.

Cllr. B. Cronin was nominated to report back to the Council on this conference.

- (f) On the PROPOSAL of Cllr. T. Buckley, SECONDED by Cllr. J. Brassil it was agreed to approve the attendance of Cllrs. R. Beasley, P. Leahy, D. Healy-Rae and M. Healy-Rae at the Rural and Regional Development Conference held in Killybegs, Co. Donegal on the 2nd & 3rd March, 2007.
- (g) On the PROPOSAL of Cllr. T. Buckley, SECONDED by Cllr. J. Brassil it was agreed to approve the attendance of Cllr. M. Healy-Rae at the AMAI Conference held in Tralee on the 9th & 10th February, 2007.
- (h) On the PROPOSAL of Cllr. T. Buckley, SECONDED by Cllr. J. Brassil it was agreed to approve the attendance of Cllr. M. Healy-Rae at the 15th Annual Kerry Environmental Conference to be held in Ballybunion from 28th March – 1st April, 2007.

07.03.12.15 Correspondence General

It was agreed to note the following items of correspondence which were circulated.

1. Letter dated 28th February, 2007 from the Office of the Minister for Education and Science regarding information and communications technology (ICT) in schools.
2. Letter dated 19th February, 2007 from the Office of the Minister for Foreign Affairs concerning the plight of the Benghazi Six.
3. Letter dated 15th February, 2007 from the Office of the Taoiseach regarding the rural Post Office network.
4. Letter dated 13th February, 2007 from the Office of the Minister for Environment, Heritage and Local Government concerning an invitation to the Minister to visit Inch.
5. Letter dated 13th February, 2007 from the Office of the Minister for Health and Children concerning restitution to residents of long-stay hospitals/nursing homes.
6. Letter dated 12th February, 2007 from the Office of the Minister for Transport regarding an amnesty for provisional drivers.
7. Letter dated 14th February, 2007 from the Office of the Minister for Arts, Sport and Tourism regarding public lands at St. Finian's Hospital, Killarney.
8. Letter dated 27th February, 2007 from the HSE South regarding the establishment of an independent inspectorate for nursing homes.
9. Letter dated 26th February, 2007 from the Office of the Minister for Health and Children regarding the establishment of an independent inspectorate for nursing homes.

Minutes of March 2007 Council Meeting

10. Letter dated 23rd February, 2007 from the Office of the Minister of State at the Department of Transport regarding the funding of members' personal accident insurance costs for the Kerry Mountain Rescue Team.
11. Letter dated 20th February, 2007 from the Department of Social and Family Affairs regarding free air travel for old age pensioners.
12. Letter dated 20th February, 2007 from the Office of the Taoiseach regarding transport projects in Kerry.
13. Letter dated 23rd February, 2007 from the Association of County and City Councils calling for an update of the dog control legislation 1998 so that an outright ban can be applied to certain dangerous breeds such as pit-bull terriers.
14. E-mail dated 1st March, 2007 from Sligo County Council concerning a resolution adopted by that authority concerning the appointment of conflict mediators at national level.

Granting of planning permission for a caravan park at Banna

Cllr. T. Ferris referred to a recent decision to grant planning permission for a caravan park at Banna and said that it is important that an explanation is given on how this decision was arrived at. The proposed location of the development is often under water and is known locally as The Lough. The number of holiday homes in the area out numbers permanent homes 17 or 18 to 1. She added that 2 local people were refused permission while permission is granted for a caravan park.

Mayor T. Fitzgerald asked what the current position in relation to this application was. Has it been appealed to An Bord Pleanála and is it appropriate for members to discuss it.

Cllr. M. Healy-Rae stated that it was unfair of Cllr. Ferris to question the decision of the planning department in this way. This is casting a slur on the planning staff which is unfair. He acknowledged that part of the site for the caravan park is wet but he welcomed the decision by the planning department to grant permission for this development.

Cllr. J. Brassil supported Cllr. Ferris's right to raise this issue and stated that he supported and tried to promote good planning. He added that Cllr. M. Healy-Rae had moved many Section 140 motions in the past 5 years and members are entitled to get a response from planning officials on this case. A local public meeting would be held later that week and it is important that the views of the local community would be taken into consideration. The Planning Department was recently promoting a policy of moving away from large caravan parks.

Cllr. P. McCarthy stated that Cllr. Ferris was merely reflecting the view of the local community, which she was entitled to do.

Mr. M. McMahon stated that the planning process is the most transparent of any process operated by the Council. The planning file is available for public inspection and every report together with the recommendation of the planner and the reasons for his recommendation are available to any member of the public who wish to inspect the file. He could not comment on any other application. He pointed out that people have the right to appeal the planning authority's decision.

Minutes of March 2007 Council Meeting

Civic Reception

Cllr. P. Leahy PROPOSED that a Civic Reception be held to honour the fundraising achievements of Willie Guiney, Listowel.

Cllr. R. Beasley SECONDED this proposal and it was agreed.

The meeting concluded at 1.15pm.

C. O Suilleabhain
SEO Corporate Affairs

Mayor of Kerry

OMBUDSMAN ATTACHMENT

4. Kerry County Development Plan – Appendix 1G

Appendix 1(g)

Other Areas of Ecological Importance

Number	Location	Notes
1	Derrymore Island and Tralee Bay	
2	Killarney Valley	
3	Derrycunihy and Galwey's Wood	
4	Muckross Woods	National Park
5	Tomies Wood	National Park
6	Killarney Lakes	National Park
7	Newfoundland Bog	National Park
8	Ross Island	National Park
9	Lough Crincaum	National Park
10	Doogary Wood	
11	Mangerton Mountain	National Park
12	Boughil and Lough Barfinney	
13	Carrigawaddra Woods	
14	Church Hill	
15	Cromane Point to Roscullen Point	
16	Dooneen Wood	
17	Kilgarvan Wood	
18	Lough Acoose	
19	Mucksna Wood	
20	Roughty River	
21	Doo Lough	
22	Inch Spit and Mudflats	
23	Inistearaght	
24	Torc Waterfall	National Park

25	Little Skellig
26	Brandon Mountain
27	Great Skellig
28	Inch-Annascaul

Number	Location	Notes
29	Puffin Island	
30	Ballaghisheen Bog	
31	Barrow Harbour	
32	Beginnish Island	
33	Coomasaharn Lake	
34	Fahamore	
35	Fermoyle	
36	Inishvickillane	
37	Lough Yganavan	
38	Magharee Islands	
39	Parkmore Point	
40	Puffin Sound - Horse Island Cliffs	
41	Slea Head	
42	Ballylongford Bay	
43	Carhoo West	
44	Church Hill	
45	Dohilla Quarry	
46	Glanlead Wood	
47	Illaunabarnagh and Mucklaghmore Island	
48	Inishnabro	
49	Inishtooskert	
50	Great Blasket	
51	Kenmare River Island	
52	Doulus Head / Cooncrone	
53	Sybil Point / Carrigbrean	

54	Valentia Island Cliffs	
55	Horse Island	
56	Valentia River Estuary	
57	Akeragh Lough	
58	Cashen River Estuary	
59	Beal Point	
60	Tarbert Bay	
61	Anna More Bog	Raised Bog of Regional Importance
Number	Location	Notes
62	Moanveanlough Bog	Raised Bog of Regional Importance
63	Imlagh Bog	Peatland Site of Archaeological Interest
64	Loughadoon	Peatland Site of Archaeological Interest
65	Scarriff Island	
66	Deenish Island	

5. SEA Guidelines

OMBUDSMAN ATTACHMENT

Implementation of SEA Directive (2001/42/EC):

Assessment of the Effects of Certain Plans and Programmes on the Environment

Guidelines for Regional Authorities and Planning Authorities

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The Department also wishes to acknowledge the time and effort taken by all those who made submissions on the draft guidelines which were issued for public consultation in March 2004. The Department took due account of the submissions received in finalising the guidelines.

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Chapter 1: Introduction

Purpose of the Guidelines

1.1 These guidelines are intended to assist regional and planning authorities, and any development agency responsible for preparing a planning scheme in respect of a Strategic Development Zone (SDZ), in implementing the requirements of Directive 2001/42/EC of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment - commonly known as the “SEA Directive”. The SEA Directive is reproduced at Appendix A.

Operative Date

1.2 The Directive applies to plans or programmes for which the first formal preparatory action is taken **on or after 21 July 2004**.

Status of the Guidelines

1.3 The guidelines do not purport to be a legal interpretation of EU or national law. They should be read in conjunction with the Directive and the following Regulations which transpose the Directive into Irish law:

- European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (S.I. 435 of 2004), and
- Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I. 436 of 2004)

1.4 These guidelines are published by the Minister for the Environment, Heritage and Local Government under sections 23(5) and 28(1) of the Planning and Development Act 2000 which respectively require regional authorities and planning authorities to have regard to the guidelines in the performance of their functions under the Act. Under section 28 of the Act, An Bord Pleanála is also required to have regard to the guidelines in the performance of its functions while planning authorities are required to make the guidelines available for inspection by members of the public.

Objectives of the SEA Directive

1.5 Article 1 of the SEA Directive states:

“The objective of this Directive is to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”

Background to the SEA Directive

1.6 Environmental assessment of individual projects in the EU dates back to 1985 when the first EIA Directive (85/337/EEC) was introduced. Since then, the EIA process has played a positive role in identifying potential environmental impacts of major projects. Experience with EIA has highlighted the need for a higher-level assessment of the environmental impacts of plans, which shape such projects.

What is Strategic Environmental Assessment (SEA)?

1.7 Strategic environmental assessment (SEA) is the formal, systematic evaluation of the likely significant environmental effects of implementing a plan or programme before a decision is made to adopt the plan or programme. The process includes:

- Preparing an Environmental Report where the likely significant environmental effects are identified and evaluated
- Consulting the public, environmental authorities, and any EU Member State affected, on the environmental report and draft plan or programme
- Taking account of the findings of the report and the outcome of these consultations in deciding whether to adopt or modify the draft plan or programme
- Making known the decision on adoption of the plan or programme and how SEA influenced the outcome.

Benefits of SEA

1.8 SEA is intended to provide the framework for influencing decision-making at an earlier stage when plans and programmes - which give rise to individual projects - are being developed. It should lead to more sustainable development through the systematic appraisal of policy options.

1.9 SEA will play an important role in addressing the cumulative impacts of individual projects. Experience with implementation of the EIA Directive has shown that EIA is not always best placed to address cumulative impacts. SEA provides the mechanism whereby this gap can be filled. However, SEA does not obviate the need for project environmental assessment, where such assessment is required under the terms of the EIA Directive.

1.10 SEA will improve the quality of the plan-making process by:

- Facilitating the identification and appraisal of alternative plan strategies: while consideration of alternatives has been developed in a number of Regional Planning Guidelines, it is less common - at least in an explicit manner - at the Development Plan or Local Area Plan levels.
- Raising awareness of the environmental impacts of plans: while it will not always be possible to eliminate all potentially significant negative effects in balancing policy options, SEA at least helps to clarify the likely consequences of such choices, and makes specific provision for mitigation measures where some negative impacts cannot be avoided.
- Encouraging the inclusion of measurable targets and indicators: which will facilitate effective monitoring of implementation of the plan, and thus make a positive contribution to subsequent reviews.

Relevant Provisions of the Planning and Development Act 2000

1.11 Although the SEA Directive was not formally adopted until 2001, its imminent arrival was anticipated by certain provisions of the 2000 Act. The Act required that when Regional Planning Guidelines, Development Plans, Local Area Plans or Strategic Development Zone (SDZ) planning schemes are being made by the relevant authority, they must be accompanied by information about the likely significant effects on the environment of implementing such plans.

Transposition of the SEA Directive into Planning Law

1.12 The European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (S.I. 435 of 2004) amended certain provisions of the Planning and Development Act 2000 to provide the statutory basis for the transposition of the Directive in respect of land-use planning. These amendments facilitated the making of the Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I. No. 436 of 2004) which give effect to the SEA Directive in the land-use planning sector. The latter Regulations, which integrate SEA into current plan-making procedures as far as possible,

- require SEA in the case of all Regional Planning Guidelines;
- require SEA in the case of Development Plans, Variations of Development Plans and Local Area Plans likely to give rise to significant environmental effects;
- require SEA in the case of Planning Schemes in respect of a Strategic Development Zone (SDZ)
- set out the procedural requirements for the preparation and consideration of the Environmental Report, including scoping and public consultation, and the integration of these new requirements with existing plan preparation / review processes; and

- designate the Environmental Authorities to be consulted at various stages during the SEA process.

1.13 The requirement for SEA applies to plans whose preparation or review *commences on or after 21 July 2004*.

1.14 These guidelines relate to the application of the SEA Directive to certain plans prepared under the Planning and Development Act 2000. The guidelines are addressed to:

- (a) Regional Authorities: in relation to the preparation or review of Regional Planning Guidelines;
- (b) Planning Authorities: in relation to the preparation or review of Development Plans and Local Area Plans
- (c) Relevant Development Agencies: in relation to the preparation of a Planning Scheme in respect of a Strategic Development Zone (SDZ).

1.15 Where the word “plan” is used throughout these guidelines, it will refer to Regional Planning Guidelines, Development Plans, Local Area Plans and Planning Schemes in respect of SDZs for which SEA will be required. Similarly, “plan-making authorities” includes regional authorities and planning authorities, and in the case of a Planning Scheme in respect of an SDZ, the relevant development agency.

Structure of the Guidelines

1.16 The general approach followed in these guidelines is to deal with the various SEA stages in chronological order, i.e. as they correspond to the relevant stages in the plan-making process. The presentation of each chapter follows a similar pattern. The Directive's requirements are dealt with at the beginning of each chapter followed by the provision of guidance on best practice. It will be seen that whilst the Directive sets some specific performance objectives, it allows considerable flexibility in how those objectives are met.

1.17 The following chapters deal chronologically with the various SEA stages, as follows:

SEA stage	Chapter
<ul style="list-style-type: none"> Screen certain plans (such as some Development Plans, Variations of Development Plans and Local Area Plans) to decide if SEA is necessary 	3 - Screening
<ul style="list-style-type: none"> Where SEA is required, scope the Environmental Report 	3 - Scoping
<ul style="list-style-type: none"> Collect baseline environmental data 	4 - Environmental Report
<ul style="list-style-type: none"> Prepare the Environmental Report 	4 - Environmental Report
<ul style="list-style-type: none"> Carry out consultations with designated environmental authorities, the public, and (if necessary) adjacent EU Member States 	5 - Consultations on Plan and Environmental Report
<ul style="list-style-type: none"> Provide specified information to the public, environmental authorities and any transboundary States, following adoption of the plan 	6 - Adoption of Plan
<ul style="list-style-type: none"> Monitor the significant environmental effects of implementing the plan 	7 - Monitoring

Chapter 2: Integrating SEA into Plan-making

Overview

2.1 In many ways, SEA builds on experience already developed within the planning system:

- Considerable experience has been gained in the preparation and assessment of environmental impact statements for major development projects. The range of environmental issues to be addressed in SEA (air, water, flora, etc.) is similar to EIA.
- Plan-making, whether at regional plan, Development Plan, or Local Area Plan level, involves consideration of alternative strategies for achieving the plan's objectives. SEA involves a more systematic and explicit appraisal of such alternatives.
- The statutory plan-making process has always incorporated public consultation, and the 2000 Act has strengthened the role of such consultation, notably at the pre-draft stage and in the consideration given to submissions. SEA will serve to bring environmental issues into sharper focus during the consultative process.

2.2 Implementation of the SEA Directive will nonetheless face the plan-making process with new challenges. Planners will need to develop new skills in order to describe, evaluate and monitor the likely significant environmental effects of plans, and thus build on the skills already developed in terms of environmental assessment at project level. SEA will need to be integrated into the statutory time-tables for the preparation/review of plans. Appendix B indicates how SEA can be incorporated into the current Development Plan preparation/review process. One of the key objectives of the 2000 Act is to ensure that plans are updated on a regular basis, and within specified timeframes. In order to ensure that SEA is properly integrated within these timeframes, it will be

essential to carry out some initial SEA work in advance of the start of the statutory preparation/ review process.

Integrating SEA into Plan-making

2.3 Table 2A sets out, in a simplified and generic way, how SEA can be integrated into various plan-making processes under the 2000 Planning Act. The table is relevant where SEA is required. However, it will be noted that SEA will not always be required - see Chapter 3 re screening of plans.

Table 2A: SEA and the Plan-making Process (generic)

STAGE	PLAN	SEA
Pre-review	Preparation of Working Papers on key issues	If SEA is not mandatory, screen for possible significant environmental effects
Initial public consultation	Publication of (a) statutory notice of intention to make or review plan, and (b) Issues Paper	Scoping of the Environmental Report, in consultation with environmental authorities
Preparation of Documentation	Preparation of draft plan	Preparation of Environmental Report
Public consultation	Public display of draft plan and consideration of submissions	Public display of Environmental Report and consideration of submissions
2nd public display (if required)	Display of any material amendment(s) to draft plan	Identify any significant environmental effects of such material amendments
Completion of process	Adoption of plan	Making specified information available
Post-plan	Implementation	Monitoring of significant environmental effects

Who should be Responsible for carrying out SEA?

2.4 SEA can be carried out by the in-house team preparing the plan, or by external specialists, or by a combination of the two. If it is carried out in-house, the team will obviously be familiar with the planning issues involved, and will be best placed to quickly feed the results of the environmental appraisal back into the plan preparation process. Consultants, on the other hand, will bring a degree of objectivity to SEA, and may well possess environmental or other experience which the in-house team may lack, especially in the early years of implementing the Directive. A combination of the two approaches may well offer the best solution, with specialists being brought in to assist the team as required at different stages in the process, such as:

- scoping the Environmental Report in consultation with the designated environmental authorities
- compilation of the baseline environmental data
- preparation of the Environmental Report
- evaluation of detailed submissions.

Planning authorities are likely to have a range of environmental expertise in other sections within their organisation, which should be utilised to the greatest possible extent. In-house staff are likely to require additional training to familiarise themselves with SEA objectives, practice and methodology (see also paragraph 4.43 regarding the quality of the environmental report).

A Step-by-step Guide to the SEA Process

2.5 Table 2B sets out the various SEA stages in more detail:

Table 2B: Step-by-Step guide to the SEA Process

Step 1: Describe briefly the statutory purpose, geographic area, population, and timeframe of the plan, and its relationship (both vertical and horizontal) with other plans/programmes.
Step 2: Summarise the main findings of the survey and analysis stage, e.g. what are the main development issues facing the area over the lifetime of the plan? What is the likely scale of population / households / employment change? In what parts of the area is most change likely to occur?
Step 3: Describe in general terms the current state of the physical environment of the area, with particular reference to (a) areas of environmental importance (such as protected sites); and (b) areas experiencing environmental problems (such as waste, or air or water pollution) at present. Describe how that environment would be likely to evolve on the basis of current development trends but no change in current policies.
Step 4: Define (a) broad planning policy objectives for the area based on Steps 1 and 2; and (b) relevant environmental policy objectives for the area taking account of national policy and any relevant international legal obligations (e.g. EU Directives).
Step 5: Identify a number of reasonable alternative development strategies for the area which are capable of fulfilling the policy objectives established in Step 4.
Step 6: Evaluate these alternative strategies against the chosen planning and environmental policy objectives (step 4), with a view to establishing the most sustainable option.
Step 7: Select the preferred strategy (which may combine elements of different strategies), stating reasons for the choice, and work it up with detailed policy objectives.

Step 8: Carry out an environmental assessment of the preferred strategy to determine whether implementation would be likely to cause any significant effects on the environment (in particular, the aspects listed in Annex I of the SEA Directive, such as biodiversity, air, cultural heritage, etc.)

Step 9: Modify the preferred strategy to eliminate, reduce or offset any significant adverse effects, as appropriate

Step 10: Propose monitoring measures in relation to any likely significant environmental impacts.

Step 11: Prepare a non-technical summary.

Documenting the SEA Process

2.6 While there will undoubtedly be a high level of overlap between the plan preparation/ review process and the SEA process, it is strongly recommended that a *separate* SEA file be maintained throughout the entire process of preparing or reviewing a plan. Overlap may arise, for example, when submissions are received from the public; such comments may address both land-use and environmental issues and may indeed be inter-linked. The SEA file should include a copy of all documentation relevant to the SEA process. Such a file will be of considerable assistance when, at the adoption of the plan, a statement has to be compiled summarising how environmental considerations have been integrated into the plan.

Chapter 3: SEA: Screening and Scoping

Definitions

3.1 The following are relevant definitions -

“Screening” is the process for deciding whether a particular plan, other than those for which SEA is mandatory, would be likely to have significant environmental effects, and would thus warrant SEA.

“Scoping” is the procedure whereby the range of environmental issues and the level of detail to be included in the Environmental Report are decided upon, in consultation with the prescribed environmental authorities.

Screening - what the SEA Directive requires

3.2 The SEA Directive requires that:

- An environmental assessment must be carried out for all plans and programmes:
 - (a) which are prepared for certain specified sectors (including land use planning), and which set the framework for future development consent of projects listed in Annex I or Annex II of the EIA Directive; or
 - (b) which, in view of the likely effect on protected sites, have been determined to require an assessment under the Habitats Directive.
- Plans and programmes in these categories which determine the use of small areas, or minor modifications to such plans and programmes, only require an environmental assessment

where the Member State determines that they are likely to have significant environmental effects. Such decisions must be based on case-by-case examination, or by specifying types of plans and programmes, or by combining both approaches.

- In deciding whether a particular plan is likely to have significant environmental effects, regard must be had to the criteria set out in Annex II of the SEA Directive - which is reproduced in new Schedule 2A to the Planning and Development Regulations 2001, as inserted by article 12 of the Planning and Development (Strategic Environmental Assessment) Regulations 2004.
- The prescribed Environmental Authorities must be consulted during screening.

Mandatory National Requirements

3.3 The Planning and Development (Strategic Environmental Assessment) Regulations 2004 require that SEA be carried out in respect of the following plans:

- (a) Regional Planning Guidelines;
- (b) City and County Development Plans;
- (c) Development Plans by Town Councils, where the population of the area is 10,000 persons or more;
- (d) Local Area Plans for areas with a population of 10,000 persons or more, and
- (e) Planning Schemes in respect of Strategic Development Zones (SDZs)

Screening of Plans

3.4 Screening is required in the case of

- (a) Development Plans by Town Councils and Local Area Plans, where the population involved is less than 10,000 persons, and
- (b) Variations of Development Plans.

If the planning authority considers that there is a *prima facie* case for SEA, it should proceed to the scoping stage (i.e. scoping of the environmental report). If the planning authority is uncertain as to the need for SEA, the designated environmental authorities should be formally consulted during the screening exercise.

3.5 The key to deciding if SEA will apply will be *whether the plan would be likely to have significant effects on the environment*. The decision should not be determined by the size of an area alone. It will also be influenced by nature and extent of the development likely to be proposed in the plan and its location (e.g. close to or within an SAC, SPA or NHA), and its broad environmental effects.

3.6 The Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I. No. 436 of 2004) require case-by-case screening of individual plans, based on the criteria in Schedule 2A to the Planning and Development Regulations 2001. These criteria must be taken into account in determining whether or not significant effects on the environment would be likely to arise. The criteria are elaborated upon below.

3.7 For the purpose of consulting environmental authorities, a notice must issue to those authorities (as appropriate) giving them an opportunity to comment on whether or not they consider significant effects on the environment would be likely to arise. It will be noted from the terms of article 13A(4) of the Planning and Development Regulations 2001 (as inserted by article 7 of S.I. No. 436 of 2004) that where consultation with environmental authorities is necessary, the Environmental Protection Agency (EPA) must be consulted in all cases. However, consultation with both the Minister

for the Environment, Heritage and Local Government and the Minister for Communications, Marine and Natural Resources is conditional. In the case of the former, consultation is conditional on it appearing to the planning authority that the plan might have significant effects in relation to the architectural or archaeological heritage or to nature conservation. In the case of the Minister for Communications, Marine and Natural Resources, consultation is conditional on it appearing to the planning authority that the plan might have significant effects on fisheries or the marine environment. The minimum period for response by the environmental authorities is specified in S.I. No. 436 of 2004.

3.8 If, following case-by-case screening, it is determined that SEA is not required, a statement of likely significant environmental effects of implementing the plan will not be required.

3.9 In the case of all screening decisions, the planning authority must make a copy of the screening decision available for public inspection and notify its decision to any environmental authority which was consulted. Where appropriate, the reasons for deciding that SEA is not required must be included in the decision. The planning authority's website, or regular local authority newsletters, can be also be utilised to publicise its decision

Criteria for Determining the Likely Significance of Environmental Effects

3.10 Schedule 2A to the Planning and Development Regulations 2001 sets out two main types of criteria for determining whether a plan would be likely to have significant environmental effects:

- (1) Characteristics of the Plan: for example, the scale of development likely to take place over the life of the plan, or the degree to which it promotes sustainable development. Does the plan set out environmentally-friendly objectives? What environmental problems are of particular relevance to the plan?
- (2) Characteristics of the effects and of the Area likely to be affected: for example, the magnitude, cumulative nature and reversibility of the effects, or the value and vulnerability

of the area likely to be affected by implementation of the plan. How many people are likely to be affected by the plan? Are there areas of conservation sensitivity (such as natural habitats) within or adjacent to the area covered by the plan? Much of the advice contained in the Department's Guidance (*August 2003*) on EIA sub-threshold Development (www.environ.ie) regarding areas of conservation sensitivity is also of relevance for SEA. How intensive is the nature of the proposed landuse? Is there a risk of accidents, e.g. involving Seveso landuses?

3.11 Each of the criteria in Schedule 2A *must* be considered initially so that the relevant ones (which will vary from case to case) may be examined in greater detail. The criteria are not listed in order of importance. In general, it can be assumed that the more of the criteria that are met, the more likely it is that the environmental effects will be significant. However, each decision must be taken on its own merits and on the basis of a global consideration of all the criteria in Schedule 2A. Cases of doubt about whether SEA is needed are often likely to reflect uncertainty about the significance of environmental effects, and in such cases the plan-making authority must use its best professional judgement as to whether SEA should be undertaken, taking into account the comments from the designated environmental authorities. It is not intended that special studies or expert technical evaluations will be necessary for the purposes of making a decision. Much of the advice contained in the Department's Guidance on EIA Sub-threshold Development (*August 2003*) will be relevant to consideration of the need for SEA and it is recommended that plan-making authorities consult the latter document during screening for SEA.

Scoping of Environmental Report

3.12 Where it has been established that SEA is required, either as a result of mandatory SEA requirements or following screening, the contents of the Environmental Report need to be scoped. The purpose of this provision is to ensure that the relevant environmental issues are identified so that they can be addressed appropriately in the Environmental Report. In this way, scoping helps, at the

early stages of plan preparation, to reduce the possibility of relevant issues not being identified.

3.13 The SEA Directive provides for considerable flexibility concerning the scope and the level of detail to be included in the environmental report. Only the information listed in Annex I that is reasonably required should be included, taking into account:

- current knowledge and methods of assessment
- the contents and level of detail in the plan
- the stage of the plan in the decision-making process, and
- the extent to which certain matters are more appropriately assessed at different levels in the decision-making process, in order to avoid duplication of assessment.

3.14 Certain strategic issues in City/County Development Plans may already have been determined at national or regional level. Development Plans themselves will set the parameters for local area plans. The hierarchy of land-use plans means that the level of detail will vary considerably as between the different levels in the hierarchy. Quite clearly, this will influence the nature and detail of the assessment and the extent to which environmental issues can be examined at any particular level. To avoid duplication of assessment, a decision needs to be made during the SEA process as to what level of detail is appropriate to different levels of SEA and what level of detail may be appropriate to the EIA of individual projects.

3.15 Scoping of the Environmental Report should take place as follows:

- (a) Development Plans: preliminary scoping can begin even before the start of the formal 2-year review process, as the existing plan will provide a reasonable indication of the nature of the area and of major development issues. However, formal scoping takes place during the initial public consultation phase required under subsections (1) to (3) of section 11 of the 2000 Act. It is recommended that a “Scoping Issues Paper” be prepared by the plan-making authority to facilitate consultation.

- (b) Variations of Development Plan: where the screening process indicates a need for SEA, the planning authority should consult with the environmental authorities (as appropriate) prior to carrying out the notification procedures under subsection (2) of section 13 of the Act.
- (c) Local Area Plans: Scoping should take place during the pre-plan consultation process required under section 20(1) of the 2000 Act, as it will be necessary to complete preparation of the Environmental Report prior to publication of the statutory notice under section 20(3) of the Act.
- (d) Regional Planning Guidelines: Again, some informal scoping can take place towards the end of the 6-year life of the guidelines, but formal scoping should begin as soon as practicable after the giving of notice by the regional authority under section 24(1) of the 2000 Act of its intention to make new guidelines. The publication of a regional Issues Paper will also facilitate both scoping and public consultation.
- (e) Planning Schemes in respect of Strategic Development Zones (SDZs): formal scoping should begin as early as possible in the process of preparing a draft planning scheme under section 168(1) of the 2000 Act.

In the case of (a), (b) and (c) above, planning authorities should consult adjacent planning authorities as appropriate.

3.16 It is recommended that at the end of the scoping procedure, the plan-making authority should prepare a brief scoping report of its conclusions as to what information is to be included in the environmental report, taking account of any recommendations from the environmental authorities.

Consultation with Environmental Authorities

3.17 Article 5(4) of the SEA Directive requires that the prescribed Environmental Authorities be consulted when deciding on the scope and level of detail to be included in the Environmental Report. It is essential that this consultation takes place as early as possible during the scoping process and that the advice of environmental authorities is taken on board in finalising the process.

If scoping is to be meaningful, the plan-making authority must do more than issue a statutory notice to the designated environmental authorities. In order to facilitate the environmental authorities, they should be given an outline of:

- the geographic area involved (a map should be included)
- the nature of the Plan, and its intended lifespan
- the likely scale, nature and location of development within the area during the life of the plan (in broad terms), and its predicted significant environmental impacts.

Designation of Environmental Authorities

3.18 Article 6(3) of the SEA Directive requires Member States to designate the authorities which, by reason of their specific environmental responsibilities, are likely to be concerned with the environmental effects of implementing plans/programmes for which SEA will be needed.

3.19 The Directive specifies the following roles in relation to the environmental authorities:

- They must be consulted by Member States when determining whether certain plans/programmes will require SEA (article 3)
- They must be consulted by plan-making authorities when deciding on the scope and level of detail of the information to be included in an Environmental Report (article 5)
- They must be given an early and effective opportunity to comment on the draft plan and the Environmental Report (article 6)
- They must also be given an opportunity to comment in cases of transboundary consultation by other Member States, in relation to likely significant environmental effects within Ireland (article 7)

- Their comments on a draft plan and associated Environmental Report must be taken into account before the plan is adopted (article 8)
- They must be informed when the plan is adopted, and the information made available to them must include a statement as to how comments on the draft plan and associated Environmental Report were taken into account (article 9).

3.20 As noted in paragraph 3.7 above, environmental authorities have been designated under the terms of article 13A(4) of the Planning and Development Regulations 2001 (as inserted by article 7 of S.I. No. 436 of 2004) as follows:

- the Environmental Protection Agency (EPA);
- the Minister for the Environment, Heritage and Local Government, where the planning authority considers that a plan might have significant effects in relation to the architectural or archaeological heritage or to nature conservation;
- the Minister for Communications, Marine and Natural Resources, where the planning authority considers that a plan might have significant effects on fisheries or the marine environment.

Contact Points in Environmental Authorities

3.21 All communications with environmental authorities should be addressed to the following contact points:

Environmental Protection Agency:

Mr. Tadhg O'Mahony
Regional Inspectorate
Environmental Protection Agency
Inniscarra
County Cork.
Tel: 021 4860818
E-mail: t.omahony@epa.ie

Department of the Environment, Heritage and Local Government:

The Manager,
Development Applications Unit,
Department of the Environment, Heritage and Local Government,
Dún Scéine,
Harcourt Lane,
Dublin 2.
Tel: (01) 4117194 or (01) 4117113

Department of Communications, Marine and Natural Resources:

Mr. John Wynne
Assistant Principal
Co-ordination Unit
Department of Communications, Marine and Natural Resources
Leeson Lane
Dublin 2.
Tel: (01) 6782900
E-mail: john.wynne@dcmnr.gov.ie.

Chapter 4: The Environmental Report

Introduction

4.1 “Environmental Report” means the part of the plan's documentation which contains the information required by article 5 and Annex I of the SEA Directive. The likely significant effects on the environment of implementing the plan shall be identified, described and evaluated in the report.

4.2 The Environmental Report is at the heart of the SEA process. It is a key mechanism in promoting sustainable development, in raising awareness of significant environmental issues and in ensuring that such issues are properly addressed within the capacity of the planning system to do so. The preparation of, and consultation on, the report, during the initial years of implementation of the SEA Directive, will be a learning curve for all concerned; despite the resources and time which will be required, it has the potential to bring considerable added value to the plan-making process.

4.3 There should be complete integration between the preparation of the environmental report and of the draft plan, so that the draft plan is informed by environmental considerations from the outset. The report must be available when the draft plan is put on public display.

4.4 It is clear from the definition of “environmental report” in article 2 of the Directive that the environmental report forms part of the plan documentation. In terms of the practical presentation of the environmental report, it is entirely a matter for the plan-making authority as to whether it is included in the actual plan or presented as a separate document. Where it is included in the plan, it should be clearly identifiable as the “environmental report”. However, if the report is too long to be included in the plan, a summary chapter should be included in the plan - with the full report included as an appendix or as a separate document.

4.5 Apart from the compilation of background material, which can be done before the start of the statutory plan preparation/review process, work on the draft plan and the Environmental Report should proceed in tandem. If the SEA process is to add value to plan-making, the preparation of the report must influence the choice of the preferred plan strategy, and of any mitigation measures needed to offset potential adverse effects of implementing that strategy.

Scope of Information to be included in Environmental Report

4.6 The Environmental Report must contain the information required by [Article 5](#) and [Annex I](#) of the Directive.

4.7 [Article 5](#) states that the report shall include the information that may *reasonably* be required. As stated in the previous chapter on scoping, the plan-making authority is required to take account of:

- current knowledge and methods of assessment
- the contents and level of detail in the plan
- the stage of the plan in the decision-making process, and
- the extent to which certain matters are more appropriately assessed at different levels in the decision-making process, in order to avoid duplication of assessment.

4.8 What this means in practice is firstly that SEA involves collating currently available, relevant environmental data; *it does not require major new research*. Where data deficiencies or gaps exist, this should be acknowledged in the report. Secondly, taking the review of a Development Plan as an example, certain strategic planning issues may already have been determined at national or regional level, whereas other more detailed issues will more appropriately be left for consideration at local area plan level. Indeed, implementation of the Development Plan may in time result in major development projects, whether in the public or private sectors, which themselves will warrant EIA. In preparing an Environmental Report on a draft Development Plan, therefore, it is important at the outset to identify those issues which are best

dealt with at the level of that plan and which should be examined in the report.

4.9 Article 5 makes it clear that relevant information obtained at other levels of decision-making or through other EU legislation may be used. For example,

- certain information available from existing environmental impact statements may be relevant
- information collected on foot of the requirements of other EU Directives (such as in relation to air or water quality), may also be relevant.

Mandatory Contents of Environmental Report

4.10 The type of information to be provided in the Environmental Report is set out in Annex I of the SEA Directive - reproduced in Schedule 2B to the Planning and Development Regulations 2001 (as inserted by article 12 of the Planning and Development (Strategic Environmental Assessment) Regulations 2004), and summarised in Table 4 A below. In general, it mirrors the type of information required in relation to EIA, albeit with some important additions, such as the need to include information on monitoring measures.

Table 4A CHECKLIST of information to be included in the Environmental Report (see Schedule 2B to the Planning and Development Regulations 2001)

A	Outline of the contents and main objectives of the plan, and of its relationship with other relevant plans and programmes
B	Description of relevant aspects of the current state of the environment and the evolution of that environment without implementation of the plan
C	Description of the environmental characteristics of areas likely to be significantly affected
D	Identification of any existing environmental problems which are relevant to the plan, particularly those relating to European protected sites
E	List environmental protection objectives, established at international, EU or national level, which are relevant to the plan and describe how those objectives and any environmental considerations have been taken into account when preparing the plan
F	Describe the likely significant effects ⁽¹⁾ on the environment (biodiversity, human health, fauna, etc.)
G	Describe any measures envisaged to prevent, reduce and as fully as possible offset any significant adverse environmental effects of implementing the plan
H	Give an outline of the reasons for selecting the alternatives considered, and a description of how the assessment was undertaken (including any difficulties)
I	A description of proposed monitoring measures
J	A non-technical summary of the above information

⁽¹⁾ These effects should include secondary, cumulative, synergistic, short, medium and long-term, permanent and temporary, positive and negative effects

Each of the above headings is discussed in more detail below.

Contents and Main Objectives of the Plan, and its Relationship with other relevant Plans (See item A in Table 4A above)

4.11 This section of the report should succinctly state:

- the legal status of the plan, its period of validity, and the geographic area covered
- the extent to which it incorporates strategic objectives from higher level plans
- its main objectives
- the scale, type and location of significant development envisaged in the area during the life of the plan
- its relationship with other plans in the area (such as a waste management plan), and the extent to which the plan sets the strategic context for lower-tier plans, such as Local Area Plans.

Description of the Current State of the Environment, Environmental Characteristics of the Area likely to be affected, and Identification of any Existing Environmental Problems (See items B, C and D in Table 4A above)

4.12 The first of these headings (item B in Table 4A above) creates two main requirements:

- a baseline description of the current physical environment in the area: with particular reference to those aspects of the environment which are experiencing plan-related problems (such as development pressures) at present, or are likely to be significantly affected by implementation of the plan.
- a “do-nothing” scenario: an estimate of how current environmental conditions would change over time without implementation of the plan, i.e. as if there were no plan.

4.13 The purpose of the baseline description is to identify the current state of the environment, against which the likely effects of implementing the plan can be assessed. The plan's impacts can be estimated as the difference in environmental conditions with and without implementation of the plan. It is clearly desirable, therefore, to use relevant quantitative data as far as possible to measure such changes, i.e. environmental indicators which can be used during the implementation monitoring phase. Where appropriate, time-series data may indicate certain trends which should be identified as part of a "do nothing" or "do minimum" scenario, e.g. what might happen if current development trends in a certain area were to continue into the future. Qualitative indicators may also be appropriate for some types of environmental impacts. Sources of environmental data are given in Appendix D.

4.14 It is accepted that the compilation of environmental data, particularly at a scale relevant to the area of the plan, may be problematic. Authorities should identify and tap available data sources, rather than undertake major new data collection. Where information gaps are identified, the plan-making authority should consider how those gaps might be addressed in the future.

4.15 Depending on the nature and scale of the plan, some or all of the following baseline data may be relevant:

- A statistical overview of the area: its physical size, its current and estimated future population, population density, settlement sizes, broad mix of land uses, etc.
- A description of the physical environment of the area: topography, landscape characteristics, availability of natural resources (surface and ground waters, soil quality, mineral resources, etc.), with particular reference to scarce or non-renewable resources
- Location and type of protected areas (Special Areas of Conservation, Architectural Conservation Areas, etc.) and Protected Species: and the extent to which they are

experiencing, or are likely to experience, development-related pressures

- Types or patterns of development: which may be linked to environmental problems or which are environmentally-friendly developments (such as compact mixed-use developments, or sources of renewable energy).

4.16 The presentation of spatial baseline data in map or graphic form will help those involved in plan preparation to understand the distribution of environmental characteristics or problems within their area, and may also facilitate better communication of the issues to the public. The use of Geographical Information Systems (GIS) by many plan-making authorities will be helpful in this regard.

4.17 Because of the time and effort likely to be needed to compile baseline information - especially when SEA is being carried out for the first time - it is important to note that much of this compilation can and should be done in advance of the statutory plan preparation/review process.

An example of a baseline environmental description is to be found in chapter 4 of the "Strategic Environmental Assessment of the Master Plan 2003" published by the Dublin Docklands Development Authority (www.dublindocklands.ie)

4.18 The "do-nothing" scenario represents a continuation of present trends, without any policy changes or infrastructural improvements - which may be proposed in the draft plan. It forms the basis of comparison against which the environmental effects of the plan will be measured. It is important to note that the "do-nothing" scenario is not one of the "reasonable alternatives" which are required to be considered under the SEA Directive. Nor would it necessarily be in keeping with the principle of sustainable development which is fundamental to the 2000 Act.

4.19 In relation to those parts of the area likely to be significantly affected by implementation of the plan (item C in Table 4A above):

- where is significant (scale and/or type) development likely to take place during the life of the plan? What kind of development will it be, and what impacts is it likely to have on the environment?
- are there parts of the area (such as protected sites, areas with vulnerable water courses, or high amenity areas) which are more sensitive to development than others? How are such areas likely to be affected by the plan?

4.20 The requirement to identify environmental problems (item D in Table 4A above) should focus on identification of the nature, location and scale of development-related environmental problems in the area, such as water or air pollution, or problems that may arise from car-dependent land use patterns.

Environmental Protection Objectives relevant to the Plan and Description of how those Objectives and any Environmental Considerations have been taken into account in preparing the Plan (See item E in Table 4A above)

4.21 An indicative list of environmental protection objectives is given in Table 4B. This list has been compiled having regard to the checklist of national, European and international policy documents, strategies, guidelines, Directives, Conventions, etc, which are summarised in Appendix C. It is important to understand that the SEA Directive only requires the identification of such objectives which are relevant to the plan, so a process of selection is required. Objectives should be adapted to local circumstances as necessary (e.g. coastal erosion may be relevant to only parts of a county's coastline).

**Table 4B: Indicative list of Environmental Protection Objectives
(Based on the headings in Schedule 2B(f) of the Planning and
Development Regulations 2001)**

Biodiversity, fauna and flora:

- Conserve the diversity of habitats and protected species
- Protect the marine environment, and promote integrated coastal zone management strategies

Population:

- Improve people's quality of life based on high-quality residential, working and recreational environments and on sustainable travel patterns

Human health:

- Minimise noise, vibration and emissions from traffic, industrial processes and extractive industry

Soil (including minerals):

- Maintain the quality of soils
- Give preference to the re-use of brownfield lands, rather than developing greenfield lands
- Minimise the consumption of non-renewable sand, gravel and rock deposits
- Minimise the amount of waste to landfill

Water:

- Protect and enhance the status of aquatic ecosystems and, with regard to their water needs, terrestrial ecosystems and wetlands directly depending on the aquatic ecosystems
- Promote sustainable water use based on a long-term protection of available water resources
- Reduce progressively discharges of polluting substances to waters
- Mitigate the effects of floods and droughts.

Air/climatic factors:

- Reduce all forms of air pollution
- Minimise emissions of greenhouse gases to contribute to a reduction and avoidance of human-induced global climate change
- Reduce waste of energy, and maximise use of renewable energy sources
- Assess, plan and manage adaptation to climate change impacts

Material assets:

- Maximise use of the existing built environment
- Avoid flood risk and/or coastal erosion in selecting sites for development

Cultural heritage:

- Promote the protection and conservation of the cultural, including architectural and archaeological, heritage

Landscape:

- Conserve and enhance valued natural and historic landscapes and features within them

Likely Significant Effects on the Environment (See item F in Table 4A above)

4.22 The preferred plan strategy will set out specific development/implementation objectives. Examples of such objectives are given in Table 4C. For the purposes of SEA, these objectives should be subjected to assessment in the context of each of the environmental protection objectives selected in accordance with paragraph 4.21 above.

Table 4C Indicative List of Development Objectives

Development objectives might include:

- To provide sufficient housing lands to meet identified needs in the area over the life of the plan
- To promote higher densities of high quality housing in suitable locations
- To promote a sustainable settlement pattern of towns and villages
- To promote sustainable rural communities
- To promote the use of public transport
- To provide sufficient zoned and serviced land for employment generation
- To protect and conserve the natural and built heritage of the area
- To promote the development of wind energy in suitable locations
- To promote the provision of community facilities in new residential areas
- To promote urban renewal
- To encourage vibrant city / town centres
- To promote a well-balanced economic structure in the area
- To provide sufficient new water supply and waste water treatment and disposal infrastructure to support ongoing sustainable development
- To implement the regional waste management plan.

4.23 An assessment should also be carried out on the detailed policies which flow from the strategic objectives. These policies will normally be grouped under various topics (housing, transport, etc.) in the draft plan. It is not envisaged, however, that the assessment would extend to specific development control standards. Thus, for example, the assessment would cover a policy objective to regulate parking in city / town centres, but not to the actual parking standards.

Assessment/Matrix Approach

4.24 The assessments referred to at paragraph 4.22 and 4.23 above of likely significant effects should be carried out by the plan team as a whole, preferably involving some external specialist advice. The most common approach to demonstrating the results of the assessment is to create a matrix, whereby the plan's development objectives are listed on one axis and the various environmental protection objectives (e.g. biodiversity, etc.) on the other. Potential effects within each box may be categorised as follows:

√	Significant beneficial impact
?	Uncertain impact
X	Significant adverse impact
O	No relationship, or insignificant impact

4.25 The matrix should also include a column headed "Comments". This could indicate, for example:

- that mitigation measures, or a change in the wording of the development objective, is required; or
- the reasons why precise impacts may be difficult to identify.

Care is needed to ensure that long pages of complex matrices do not dominate the environmental report. The key to the use of matrices is what conclusions are drawn from them.

4.26 While clearly SEA needs to identify possible significant adverse effects on the environment at an early stage in the plan-making process, the Directive calls for positive effects to be identified as well. Many types of plan include objectives for improving the

environment, such as sewage treatment improvements, the creation of new open spaces and planting, the removal of dereliction, and traffic calming. The beneficial impacts of such objectives should also be identified.

Significant Effects

4.27 Significance may be assessed in terms of the type/scale of development envisaged by the plan and the sensitivity/importance of the receiving environment. Such assessment calls for careful judgement, which may best be achieved through a collaborative team effort, involving expert advice where appropriate. An indicative list of indicators of possible environmental impacts is given in Table 7A.

4.28 The Environmental Report should explain why certain impacts have been considered to be “significant”, or “insignificant”, as the case may be.

4.29 Where significant (positive or negative) impacts are identified, it may be helpful to indicate whether these effects are likely to occur at the national, regional, or local scale. These different scales are likely to be relevant in the context of devising monitoring measures.

Cumulative Effects

4.30 SEA has the potential to assess cumulative effects which the case-by-case approach of project EIA may not be fully equipped to do. For example, the presence of sand-and-gravel deposits within a particular area may result in numerous small-scale quarries, which cumulatively may have potential significant environmental effects on transport, air quality and availability of development land.

Current examples of plans which incorporate an SEA-type assessment include:

- Cork Area Strategic Plan 2002 - 2020 (*sub-regional plan*)
- Cork County Development Plan 2003-2009 (*predominantly rural*)
- Dun Laoghaire-Rathdown Development Plan 2004 - 2010 (*predominantly urban*)

Measures envisaged to Prevent, Reduce and as fully as possible Offset any Significant Adverse Environmental Effects (See item G in Table 4A)

4.31 As stated above, environmental considerations should inform all stages of plan preparation, so that by the time the preferred strategy is chosen, the potential for significant adverse effects arising from plan implementation should be minimised. Nonetheless, it is possible that some individual plan objectives will create such effects. For example, new development may create additional demand for water supply in an area where such supply is already scarce. Where the environmental assessment identifies significant adverse effects, consideration should be given in the first instance to preventing such impacts or, where this is not possible for stated reasons, to lessening or offsetting those effects. The environmental authorities may be able to advise on mitigation measures in certain cases.

4.32 Where the SEA process identifies the potential for significant adverse impacts (even with mitigation measures), consideration needs to be given to future monitoring.

An example of recommended mitigation measures arising from an SEA exercise is to be found in chapter 8 of the SEA of the Dublin Docklands Master Plan, 2003

Outline of reasons for Selecting Alternatives and Description of how the Assessment was undertaken, including any Difficulties (See item H in Table 4A above)

4.33 There are two separate issues here: (i) selection of alternatives, and (ii) how the assessment was undertaken, including technical problems in compiling the necessary information for the report.

Alternatives

4.34 Article 5 of the SEA Directive requires the Environmental Report to consider “reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme” and the significant environmental effects of the alternatives selected. The higher the level of the plan (such as Regional Planning Guidelines), the more strategic are the options which are likely to be available¹. Conversely, lower tier plans, such as Local Area Plans, will be framed in a policy context set by the level(s) above them, and strategic options may be limited. However, rational choices need to be made - and demonstrated - at the level of each particular plan. Very often, such choices will focus on location of new development. In relation to location of new residential development, for example, issues to be considered may include:

- How much can be located on brownfield sites?
- Which greenfield sites can be serviced, and which are closest to public transport?
- What densities would be appropriate for different locations?
- What other land uses should be mixed with residential?
- What areas should be avoided (e.g. due to risk of flooding)?
- Does the site selection minimise adverse impacts on heritage?

¹ See, for example, the treatment of strategic options in the Cork Area Strategic Plan 2002-2020

4.35 Alternatives must be realistic and capable of implementation, and should represent a range of different approaches within the statutory and operational requirements of the particular plan. Sometimes the preferred strategy will combine elements from the various alternatives considered.

4.36 Where the particular circumstances of the plan suggest that strategic options are limited (e.g. because of the need to comply with strategic policy established in a higher-level plan), a possible approach is to consider the likely significant environmental impacts of different scenarios around the preferred strategic option. An example might be:

- suppose a city or county Development Plan assumed a certain level of economic growth to underpin the amount of residential and commercial development envisaged in the plan. What would be the likely environmental consequences if growth were to be significantly higher or lower than forecast?

Assessment Methods (including Difficulties)

4.37 The Environmental Report should include a summary of how the assessment was carried out. Where appropriate, this should include an account of any difficulties encountered in compiling the required information. The latter will be helpful when judging the quality of information, the findings of the assessment and the degree to which they can be relied upon.

4.38 Data may not be available at the level which is appropriate to the plan, or there may be gaps in relation to some key issues. It may be difficult to predict the effects of plans with reasonable certainty, perhaps because implementation will be governed by factors outside the control of the planning system. The SEA Directive requires that such difficulties be acknowledged in the report, so that decision-makers, the environmental authorities and the general public are made aware of such difficulties. However, there are ways of minimising problems; for example, forecasts can reflect the uncertainty involved by expressing them in terms of a high-low range rather than giving precise figures. It should also

be remembered that precise measurements are not always necessary or appropriate: there is a role for qualitative judgements based on experience and expertise.

Proposed Monitoring Measures (See item I in Table 4A above)

4.39 Article 10 of the SEA Directive requires Member States to monitor the significant environmental effects of the implementation of plans and programmes in order to identify at an early stage unforeseen adverse effects and to be able to undertake appropriate remedial action.

4.40 Schedule 2B(i) of the Planning and Development Regulations 2001 refers to the monitoring measures “envisaged”. The Environmental Report puts forward proposals for monitoring, but these can only be finalised when the plan is being adopted. In selecting such measures, attention should be focused on likely significant effects identified during the environmental assessment under F in Table 4A above. Monitoring is dealt with in more detail in Chapter 7.

Non-Technical Summary (See item J in Table 4A above)

4.41 The purpose of the non-technical summary is to ensure that the key issues and findings of the Environmental Report will be readily understood by decision-makers and by the general public. Technical jargon should be avoided, as far as possible. The summary should form part of the report, but it might also be published separately with a view to wider dissemination. An overall summary table may be helpful in simplifying the main findings, but care will be needed to ensure that the presentation of any complex issues is not distorted through over-simplification. The non-technical summary should accurately reflect the findings of the Environmental Report.

Layout of Environmental Report

4.42 The Directive is not prescriptive regarding the layout of the report. However, the following layout of contents is recommended for consideration:

- Non-technical summary (may also be provided separately)
- Introduction (brief description of the plan and the area; purpose of report)
- SEA methodology (including authors, methods used, technical difficulties encountered, list of environmental authorities consulted, etc.)
- Summary of the key objectives of the plan
- Relationship of the plan with other relevant plans and programmes
- Summary of the baseline environment
- SEA objectives and indicators
- Assessment of alternatives, and selection of preferred alternative
- Incorporation of mitigation measures and assessment results into the plan
- Monitoring proposals.

Quality of Environmental Report

4.43 Article 12(2) of the Directive puts an onus on Member States to ensure that Environmental Reports are of sufficient quality to meet the requirements of the Directive. These guidelines are designed to assist plan-making authorities in meeting that obligation. Authorities could take into account a checklist in a recent EPA Report on SEA methodology* for reviewing the adequacy of the SEA process in general and the Environmental Report in particular. Where consultants are employed, the consultants should ideally (i) have undergone a qualification in SEA recognised by a Member State of the European Economic Area (EEA) and (ii) have a track record in SEA relating to land use planning.

* *Environmental Protection Agency/ERM Environmental Resources Management Ireland Ltd. "Development of Strategic Environmental Assessment Methodologies for Plans and Programmes in Ireland: Synthesis Report" (2003) - see Appendix B, SEA Checklist [The fuller Final Report can be downloaded from the EPA website: www.epa.ie]*

Chapter 5: Consultations on Plan and Environmental Report

5.1 The SEA Directive makes provision for three main types of consultation on the plan and environmental report

- with the general public (Article 6),
- with prescribed environmental authorities (Article 6), and
- transboundary consultation (Article 7).

The SEA Directive also specifies that adequate time must be allowed for consultation and for consideration of submissions.

Public Participation

5.2 Public participation has been an important feature of the Irish planning system since the enactment of the Local Government (Planning & Development) Act 1963. The Development Plan is a framework for initiating and influencing the process of change in our surroundings in order to support the wider economic, social and environmental objectives of the community. Effective involvement of the wider community in the plan preparation process through public consultation, along with the democratically elected members of the planning authority, is intended to build ownership of the plan and to facilitate its subsequent implementation. Another important reason for consultation is to contribute to the quality of the information available to decision-makers when adopting a plan.

Consultations with Environmental Authorities and the Public

5.3 Article 6 of the Directive requires that both environmental authorities and the public must be given an “early and effective”

opportunity to make submissions on the draft plan and the accompanying Environmental Report before any final decision is made on the plan. ("The public" includes organisations and individuals). The Planning and Development (Strategic Environmental Assessment) Regulations 2004 give effect to these consultation requirements by providing that:

- the Environmental Report must be put on public display along with the draft plan, and
- in addition to the draft plan, the Environmental Report must be sent to the prescribed authorities and the environmental authorities; and
- written submissions are invited on the Environmental Report as well as the draft plan.

5.4 Regional and planning authorities can take a pro-active approach to engaging the public in the SEA process, for example by dedicating part of their websites to SEA information.

Transboundary Consultations

5.5 Article 7 of the SEA Directive provides that where a Member State considers that the implementation of a plan being prepared in relation to its territory is likely to have significant effects on the environment in another Member State, or where a Member State likely to be significantly affected so requests, the Member State in whose territory the plan is being prepared shall, before its adoption, forward a copy of the draft plan and the associated Environmental Report to the other Member State.

5.6 Where a Member State is sent a copy of a draft plan and the associated Environmental Report, it must indicate to the other State whether it wishes to enter into consultations before the adoption of the plan. If it so indicates, the Member States concerned are required to enter into consultations concerning the likely transboundary environmental effects of implementing the plan

and the measures envisaged to reduce or eliminate such effects. Any transboundary effects may require monitoring and, in such cases, possible monitoring arrangements should also be discussed.

5.7 Where transboundary consultations are to take place, there are a number of procedural issues upon which the Member States concerned must reach agreement. At the outset, they must *agree on a reasonable timeframe for the duration of the consultations*. In addition, they must agree on detailed arrangements to ensure that the prescribed environmental authorities and the public in the Member State likely to be significantly affected are informed and given an opportunity to forward their opinion within a reasonable time-frame.

Practical Application of Transboundary Requirements

5.8 The most likely requirement for transboundary consultations will be with the Northern Ireland authorities in the context of the preparation of plans which are likely to have significant cross-border environmental effects. The Department of the Environment, Heritage and Local Government is engaged in consultations with the Northern Ireland authorities on the possible formulation of agreed cross-border consultation procedures. The guidance set out below concerning transboundary consultations will be subject to review in the light of ongoing discussions with the Northern Ireland authorities and practical experience.

5.9 Plans in the Republic of Ireland

- **Regional Planning Guidelines (RPGs):** RPGs were adopted for all regions in April/May 2004, are valid for 12 years but will fall due for review in 6 years time. It is anticipated that transboundary consultation should take place with the Northern Ireland authorities on the future reviews of the Border Regional Planning Guidelines and perhaps the Regional Planning Guidelines for the Greater Dublin Area (in the context of the ongoing development of the Dublin-Belfast Corridor).

- **Development Plans:** It is recommended that all Development Plans, which are subject to SEA, in counties contiguous to the border with Northern Ireland should, as a matter of best practice, be subject to transboundary consultation with the Northern Ireland authorities.
- **Variations of Development Plans:** the question as to whether variations of development plans are likely to give rise to significant transboundary environmental effects will be a matter for consideration by the relevant planning authority in the context of case-by-case screening of the need for SEA. It is recommended that, as appropriate, informal consultations in relation to transboundary environmental effects should take place with the Northern Ireland authorities at the screening stage.
- **Local Area Plans (LAPs):** the question as to whether LAPs are likely to give rise to significant transboundary environmental effects will be a matter for judgement by the relevant planning authority, on a case-by-case basis.
- **Planning Schemes in SDZs:** the question as to whether planning schemes are likely to give rise to significant transboundary environmental effects will be a matter for judgement by the relevant planning authority, on a case-by-case basis.

Contact Point in Northern Ireland

5.10 Where consultation is required with the Northern Ireland authorities, all communication/correspondence should be addressed to The Director, Plans and Policy Directorate, Planning Service Headquarters, Millennium House, 19-25 Great Victoria Street, Belfast BT2 7BN; Tel. 04890540540; e-mail pat.quinn@doeni.gov.uk. The Northern Ireland Planning Service, which is an agency of the Department of the Environment, is responsible for preparing Development Plans and for carrying out Strategic Environmental Assessments on these Plans. The Planning Service is currently refining guidance on the implementation of the SEA Directive for Plans and, in liaison with the Department of the Environment, Heritage and Local Government (Dublin), on the procedures for transboundary consultation.

Timing of Transboundary Consultations

5.11 With regard to the timing of transboundary consultations, the formal requirement in the Directive and Regulations is that such consultations should take place following preparation of the draft plan and associated environmental report. However, as a matter of best practice, it is recommended that transboundary consultations should begin as early as possible in the process of plan preparation.

Consulting the Minister for the Environment, Heritage and Local Government

5.12 The Planning and Development (Strategic Environmental Assessment) Regulations 2004 provide that, before forwarding a copy of a draft plan and associated environmental report to another Member State, the planning authority must consult with the Minister for the Environment, Heritage and Local Government. Such consultation should be done in the form of a written communication to the Spatial Policy Section, Department of the Environment, Heritage and Local Government, Custom House, Dublin 1. A copy of the draft plan and associated environmental report should accompany the written communication. The primary purpose of this consultation is to provide information to the Department on activity levels in transboundary consultations.

Timeframe for Completing Consultations

5.13 Where an authority in another Member State indicates to a plan-making authority that it wishes to enter into consultations on a draft plan, it will be necessary for the plan-making authority to ensure that such consultations are carried out and completed within the statutory timeframes set out in the 2000 Planning Act. For this purpose, the Regulations require that the plan-making authority must agree with the other Member State (i) a reasonable timeframe for the completion of the consultations and (ii) detailed arrangements to ensure that the environmental authorities and the public likely to be affected in the other Member State are informed and given an opportunity to forward their opinion within a reasonable timeframe.

5.14 In the case of the preparation of a Development Plan for example, section 12(2) of the 2000 Planning Act specifies a minimum period of 10 weeks for public inspection and written submissions or observations. The period selected by the planning authority must be such as to allow the Manager sufficient time to prepare a report for councillors, on the submissions or observations received, not later than 22 weeks after the public notice (section 12(4) of the 2000 Planning Act). Where transboundary consultations are involved, it will be necessary for the planning authority to seek the co-operation of any transboundary State in ensuring that such consultations, including consultation with environmental authorities and the public in any such State, are completed within the framework of the above-mentioned 22 week period.

5.15 In the case of transboundary consultations involving a draft plan from another Member State, it will be necessary for a planning or regional authority in receipt of such a plan to co-operate with any such State in ensuring that such consultations, including consultation with environmental authorities and the public likely to be affected here in Ireland, are completed within any statutory or other timeframe specified by such State.

5.16 Where environmental authorities and the public are consulted in respect of a draft plan and associated environmental report from another Member State, any submissions received should be transmitted in full (without editing or comment) to the other Member State. It is open to the planning or regional authority to also transmit any independent comments which the authority itself may wish to offer.

Chapter 6: Adoption of Plan

Overview

6.1 Article 8 of the SEA Directive requires that the Environmental Report, the opinions expressed by the environmental authorities and the public, and the outcome of any transboundary consultation, must be taken into account during the preparation of the plan and before its adoption.

6.2 The attention of elected members of the regional or planning authority should be drawn to the fact that the SEA Directive creates this new statutory responsibility.

6.3 Article 9 of the Directive provides that when a plan is adopted, the environmental authorities, the public, and any relevant transboundary State must be informed, and the following items made available to those so informed:

- the plan as adopted;
- a statement summarising how environmental considerations have been integrated into the plan, how the Environmental Report and the outcome of consultations were taken into account, and the reasons for choosing the plan as adopted in the light of other reasonable alternatives considered; and
- monitoring measures.

SEA Statement

6.4 The first point to note in relation to the SEA statement required under article 9(1)(b) of the Directive is that it must *summarise* the issues referred to in that provision of the Directive. The SEA statement should therefore *concisely* address these issues. It will be noted that the Directive lists the requirement to provide information on monitoring measures (required under article 9(1)(c)) separate from the requirement to provide the SEA statement.

However, the Planning and Development (Strategic Environmental Assessment) Regulations 2004 require that information on monitoring measures be included in the SEA statement.

Recommended Format for SEA Statement

6.5 The following format for the SEA statement is recommended:

1. **Summary of how environmental considerations and the Environmental Report were factored into the plan:** This should highlight the main changes to the plan which resulted from consideration of environmental issues and the Environmental Report.
2. **Summary of how submissions/consultations were taken into account:** In the case of SEA of a development plan for example, the Manager's report under section 12(4) or (8) of the 2000 Planning Act should provide the basis for this part of the SEA statement, which should indicate what action (if any) was taken in response to the submissions/consultations.
3. **Reasons for choosing the plan as adopted, in the light of other reasonable alternatives considered:** The main alternatives should be briefly outlined, including how they were assessed, and why the preferred option was selected.
4. **Monitoring measures:** The Environmental Report which will have been made available for public consultation will have included proposals in relation to monitoring of the draft plan. Once monitoring measures have been finalised with the adoption of the plan, and having regard to any relevant submissions/consultation, the statement should include a summary of the measures which will be put in place to monitor the significant environmental effects of implementing the plan.

There may be overlap between some of the headings above, in particular items 1 and 2. For example, consideration of environmental issues may be linked to submissions received as

part of the consultation process, so that the distinction between items 1 and 2 above may not always be appropriate.

Consideration of Submissions

6.6 Provision is already made in the 2000 Planning Act for the consideration of submissions made in relation to draft plans e.g. the Manager's report for the elected members under section 12(4) or (8) of the 2000 Act must list the persons or bodies who made submissions, summarise the issues raised, and give the Manager's response to those issues. Submissions received on the Environmental Report must also be listed, summarised and analysed as part of this process. Those who make a submission are entitled to know what consideration has been given to the points made. While it may be desirable to group similar submissions, individual submissions should be identified, e.g. by reference number. Once the SEA-related submissions have been reviewed, a decision has to be made as to whether any of the predictions regarding likely significant environmental effects need to be revised, and, if so, whether any of the proposed policies and objectives in the draft plan should be amended.

6.7 If changes to the draft plan are needed, the changes should be screened as quickly as possible to see if they themselves would cause any significant environmental effects not previously identified or addressed in the Environmental Report. The screening process should be recorded, including assessment of any likely significant environmental effects. This recording can be done by way of amendment to or separately from the Environmental Report. If there are material changes to the draft plan, this screening documentation should be made available for inspection during the public display of the proposed amendments to the draft plan.

Chapter 7: Monitoring

Requirements of the SEA Directive

7.1 Article 10 of the Directive requires Member States to monitor the significant environmental effects of the implementation of plans “in order, inter alia, to identify at an early stage unforeseen adverse effects and to be able to undertake appropriate remedial action.” Existing monitoring arrangements may be used if appropriate, to avoid duplication of monitoring.

Purpose of Monitoring

7.2 The primary purpose of monitoring is to cross-check significant environmental effects which arise during the implementation stage against those predicted during the plan preparation stage.

Monitoring Arrangements and Methods

7.3 The SEA Directive leaves considerable flexibility to Member States in deciding how monitoring shall be arranged. Such flexibility is essential because the scope, depth and method of monitoring will depend very much on the type of plan; the likely significant environmental effects of implementing Regional Planning Guidelines, for instance, will be very different from those of Local Area Plans. It is recommended that the arrangements and methods chosen should be those which are best fitted in each case to checking whether the assumptions made in the Environmental Report correspond with the environmental effects arising from implementation of the plan, and to identifying at an early stage unforeseen adverse effects.

7.4 The Directive acknowledges that monitoring does not necessarily require new research activity; existing sources of information can be used. Nor does the Directive require that each plan be monitored individually; one monitoring arrangement may cover several plans (e.g. a Development Plan and related Local

Area Plans). Where gaps in environmental information are identified during the preparation of the environmental report, monitoring measures over the period of the plan can be geared towards addressing such gaps, where this is practicable.

Scope of Monitoring

7.5 Monitoring must be linked to earlier stages in the SEA process, in particular to the environmental objectives and issues identified during the preparation of the Environmental Report. Monitoring should concentrate on the likely *significant* environmental effects, which have been identified in the Environmental Report and the measures identified as necessary to prevent, reduce and offset any significant adverse effects. This enables the plan-making authority to evaluate emerging data with a view to considering the need for appropriate remedial action if monitoring reveals unforeseen adverse effects on the environment. In most cases, it is envisaged that any modifications to a plan will be incorporated in the subsequent periodic review of the plan; only in the most exceptional circumstances would a variation during the lifetime of the plan be warranted.

7.6 “Unforeseen adverse effects” is taken to refer to shortcomings of forecasts in the Environmental Report (e.g. regarding the predicted intensity of an environmental effect) or unforeseen effects resulting from changes of circumstances, which may affect the validity of certain assumptions in the report.

Who is Responsible for Monitoring?

7.7 Plan-making authorities should take responsibility (i) for devising monitoring programmes, (ii) for ensuring that arrangements are in place for the timely collection of monitoring data from all relevant agencies and (iii) for evaluating the results of monitoring or ensuring that any necessary evaluations are carried out.

7.8 Local authorities already undertake a range of environmental monitoring (see Appendix D - Sources of Environmental Data), some of which may be suitable for SEA purposes. For example,

specific plan-related data is often collected as part of the review of a Development Plan. As is clear from Appendix D, relevant data is also collected by other bodies such as the Environmental Protection Agency (EPA); for example, the EPA carries out biological surveys at some 3,000 sites in rivers, lakes and estuaries on a 3-year cycle to monitor water quality throughout Ireland.

7.9 However the data is collected, it is essential that arrangements are put in place to ensure that it is given to the team responsible for preparing or reviewing the plan. It will be a matter for the plan-making authority to ensure that, where monitoring data is supplied by other agencies, that data is up-to-date and reliable.

When does Monitoring take place?

7.10 The process of monitoring should begin when the plan is adopted and should, in general, continue over the period of the plan. In the case of a development plan for example, sufficient data may be available to enable a preliminary report to be prepared to coincide with the Manager's report to the elected members on the progress achieved in securing Development Plan objectives, within two years of the making of the plan (section 15 of the 2000 Planning Act refers). Otherwise, the results of monitoring can be integrated with the normal review of the plan. For example, the monitoring results could help in the compilation of a revised baseline study, or in the drafting of revised objectives, for the new plan.

Indicators

7.11 Monitoring is often based on indicators which measure changes in the environment, especially changes which are critical in terms of environmental quality (such as air or water pollution levels, or impacts on recorded monuments). Indicators aim at simplifying complex inter-relationships and providing information about environmental issues which is relatively easy to understand. Given the disparity in scale between (say) Regional Planning Guidelines and a Local Area Plan for a small town, it is not possible to prescribe a universal set of indicators. An indicative list of

environmental indicators of relevance to planning (both adverse and beneficial impacts) is given in Table 7A below.

7.12 In selecting appropriate indicators, the plan-making authority might ask the following questions:

1. What do we want to monitor?
2. Why do we want to monitor this topic?
3. How can it be measured?
4. Where can the necessary information be obtained? (e.g. is it already being measured?)
5. At which value of the environmental indicator is intervention needed to avoid significant adverse impacts?

7.13 The European Environmental Agency has developed a framework which explains the relationship between environmental monitoring and indicators. According to this framework, social and economic development can exert pressure on the environment, which leads to a change in the state of the environment. As a result, impacts on human health and the environment can occur. In order to mitigate or reduce negative impacts, a response is needed. Thus,

Indicators for driving forces describe the social, demographic and economic developments in societies and the corresponding changes in lifestyles, etc. Examples include population growth and higher car ownership.

Pressure indicators describe developments in the release of substances, physical and biological agents, the use of resources, and the use of land.

State indicators give a description of the quantity and quality of physical, biological or chemical phenomena in a certain area (e.g. wildlife resources). In Ireland, the Environmental Protection

Agency regularly publishes “state of the environment” reports, using such indicators.

Impact indicators describe the impacts resulting from the driving forces. The use of such indicators is well established in the environmental assessment of projects (EIA).

Response indicators refer to responses by government, groups and individuals in society to prevent, compensate, ameliorate or adapt changes in the state of the environment.

As far as possible, both quantitative and qualitative indicators should relate to the environmental baseline study which is the starting point for the preparation of the Environmental Report.

Table 7A: Indicative List of Planning-related Indicators

	Environmental category	Nature of potential impact	Possible indicators
1	Biodiversity, fauna and flora	Loss of, flora, fauna, habitats or biodiversity	<ul style="list-style-type: none"> Known Loss
2	Population and human health	<ul style="list-style-type: none"> Risk of serious accident Air pollution Water (especially drinking water) pollution Noise 	<ul style="list-style-type: none"> Estimated reduction in road accidents arising from safer road design/ works No./severity of recorded water or air pollution incidents Recorded traffic or industrial process noise levels
3	Soil	<ul style="list-style-type: none"> Consumption of non-renewable mineral resources 	<ul style="list-style-type: none"> Increase in reuse/recycling of construction and demolition (C&D) waste
4	Water	<ul style="list-style-type: none"> Pollution of ground waters, surface waters, estuary and sea waters Consumption or loss of water supplies 	<ul style="list-style-type: none"> Water pollution measurements Estimated levels of water supply and waste water infrastructure required to serve new development Reduction in estimated loss of water supply by repair/renewal of old pipe networks
5	Air and climatic Factors	<ul style="list-style-type: none"> Air pollution (local) Greenhouse gas emissions (national) 	<ul style="list-style-type: none"> Traffic volumes/modal split % of new development within public transport corridors Amount of national/local energy generated from renewable sources
6	Material Assets	<ul style="list-style-type: none"> Flood risk 	<ul style="list-style-type: none"> Recorded flooding episodes
7	Cultural heritage	<ul style="list-style-type: none"> Damage to or loss of protected sites or structures 	<ul style="list-style-type: none"> Known loss of such sites or structures
8	Landscape	<ul style="list-style-type: none"> Developments in sensitive landscapes 	<ul style="list-style-type: none"> Scale of such development

Possible Additional Guidance

7.14 It will take a number of years of implementation of the SEA Directive by EU Member States before experience is built up in monitoring the environmental effects resulting from the implementation of plans. The Directive allows for considerable flexibility in tailoring monitoring arrangements to the nature of different types of plans, and it is to be expected that there will be a degree of experimentation in the early years of implementing the Directive. While there is a substantial amount of environmental data available at national level, it will not always be possible to link changes in the environment to the implementation of particular plans. The Department will liaise with regional and planning authorities with regard to monitoring, and may issue additional guidance at a later date based on emerging best practice and experience.

Appendix A

Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,
and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the Opinion of the Economic and Social
Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251
of the Treaty⁴, in the light of the joint text approved by the
Conciliation Committee on 21 March 2001,

¹ OJ C 129, 25.4.1997, p. 14 and OJ C 83, 25.3.1999, p. 13.

² OJ C 287, 22.9.1997, p. 101.

³ OJ C 64, 27.2.1998, p. 63 and OJ C 374, 23.12.1999, p. 9.

⁴ Opinion of the European Parliament of 20 October 1998 (OJ C 341, 9.11.1998, p. 18), confirmed on 16 September 1999 (OJ C 54, 25.2.2000, p. 76), Council Common Position of 30 March 2000 (OJ C 137, 16.5.2000, p. 11) and Decision of the European Parliament of 6 September 2000 (OJ C 135, 7.5.2001, p. 155). Decision of the European Parliament of 31 May 2001 and Decision of the Council of 5 June 2001.

Whereas:

- (1) Article 174 of the Treaty provides that Community policy on the environment is to contribute to, inter alia, the preservation, protection and improvement of the quality of the environment, the protection of human health and the prudent and rational utilisation of natural resources and that it is to be based on the precautionary principle. Article 6 of the Treaty provides that environmental protection requirements are to be integrated into the definition of Community policies and activities, in particular with a view to promoting sustainable development.
- (2) The Fifth Environment Action Programme: Towards sustainability – A European Community programme of policy and action in relation to the environment and sustainable development¹, supplemented by Council Decision No. 2179/98/EC² on its review, affirms the importance of assessing the likely environmental effects of plans and programmes.
- (3) The Convention on Biological Diversity requires Parties to integrate as far as possible and as appropriate the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans and programmes.
- (4) Environmental assessment is an important tool for integrating environmental considerations into the preparation and adoption of certain plans and programmes which are likely to have significant effects on the environment in the Member States, because it ensures that such effects of implementing plans and programmes are taken into account during their preparation and before their adoption.

¹ OJ C 138, 17. 5.1993, p. 5.

² OJ L 275, 10.10.1998, p. 1.

- (5) The adoption of environmental assessment procedures at the planning and programming level should benefit undertakings by providing a more consistent framework in which to operate by the inclusion of the relevant environmental information into decision-making. The inclusion of a wider set of factors in decision-making should contribute to more sustainable and effective solutions.
- (6) The different environmental assessment systems operating within Member States should contain a set of common procedural requirements necessary to contribute to a high level of protection of the environment.
- (7) The United Nations/Economic Commission for Europe Convention on Environmental Impact Assessment in a Transboundary Context of 25 February 1991, which applies to both Member States and other States, encourages the parties to the Convention to apply its principles to plans and programmes as well; at the second meeting of the Parties to the Convention in Sofia on 26 and 27 February 2001, it was decided to prepare a legally binding protocol on strategic environmental assessment which would supplement the existing provisions on environmental impact assessment in a transboundary context, with a view to its possible adoption on the occasion of the 5th Ministerial Conference "Environment for Europe" at an extraordinary meeting of the Parties to the Convention, scheduled for May 2003 in Kiev, Ukraine. The systems operating within the Community for environmental assessment of plans and programmes should ensure that there are adequate transboundary consultations where the implementation of a plan or programme being prepared in one Member State is likely to have significant effects on the environment of another Member State. The information on plans and programmes having significant effects on the environment of other States should be forwarded on a reciprocal and equivalent basis within an appropriate legal framework between Member States and these other States.

- (8) Action is therefore required at Community level to lay down a minimum environmental assessment framework, which would set out the broad principles of the environmental assessment system and leave the details to the Member States, having regard to the principle of subsidiarity. Action by the Community should not go beyond what is necessary to achieve the objectives set out in the Treaty.
- (9) This Directive is of a procedural nature, and its requirements should either be integrated into existing procedures in Member States or incorporated in specifically established procedures. With a view to avoiding duplication of the assessment, Member States should take account, where appropriate, of the fact that assessments will be carried out at different levels of a hierarchy of plans and programmes.
- (10) All plans and programmes which are prepared for a number of sectors and which set a framework for future development consent of projects listed in Annexes I and II to Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment¹, and all plans and programmes which have been determined to require assessment pursuant to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna², are likely to have significant effects on the environment, and should as a rule be made subject to systematic environmental assessment. When they determine the use of small areas at local level or are minor modifications to the above plans or programmes, they should be assessed only where Member States determine that they are likely to have significant effects on the environment.

¹ OJ L 175, 5.7.1985, p. 40. Directive as amended by Directive 97/11/EC (OJ L 73, 14.3.1997, p. 5).

² OJ L 206, 22.7.1992, p. 7. Directive as last amended by Directive 97/62/EC (OJ L 305, 8.11.1997, p. 42).

- (11) Other plans and programmes which set the framework for future development consent of projects may not have significant effects on the environment in all cases and should be assessed only where Member States determine that they are likely to have such effects.
- (12) When Member States make such determinations, they should take into account the relevant criteria set out in this Directive.
- (13) Some plans or programmes are not subject to this Directive because of their particular characteristics.
- (14) Where an assessment is required by this Directive, an environmental report should be prepared containing relevant information as set out in this Directive, identifying, describing and evaluating the likely significant environmental effects of implementing the plan or programme, and reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme; Member States should communicate to the Commission any measures they take concerning the quality of environmental reports.
- (15) In order to contribute to more transparent decision-making and with the aim of ensuring that the information supplied for the assessment is comprehensive and reliable, it is necessary to provide that authorities with relevant environmental responsibilities and the public are to be consulted during the assessment of plans and programmes, and that appropriate time frames are set, allowing sufficient time for consultations, including the expression of opinion.
- (16) Where the implementation of a plan or programme prepared in one Member State is likely to have a significant effect on the environment of other Member States, provision should be made for the Member States concerned to enter into consultations and for the relevant authorities and the public to be informed and enabled to express their opinion.

- (17) The environmental report and the opinions expressed by the relevant authorities and the public, as well as the results of any transboundary consultation, should be taken into account during the preparation of the plan or programme and before its adoption or submission to the legislative procedure.
- (18) Member States should ensure that, when a plan or programme is adopted, the relevant authorities and the public are informed and relevant information is made available to them.
- (19) Where the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Community legislation, such as Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds¹, Directive 92/43/EEC, or Directive 2000/60/EC of the European Parliament and the Council of 23 October 2000 establishing a framework for Community action in the field of water policy², in order to avoid duplication of the assessment, Member States may provide for coordinated or joint procedures fulfilling the requirements of the relevant Community legislation.
- (20) A first report on the application and effectiveness of this Directive should be carried out by the Commission five years after its entry into force, and at seven-year intervals thereafter. With a view to further integrating environmental protection requirements, and taking into account the experience acquired, the first report should, if appropriate, be accompanied by proposals for amendment of this Directive, in particular as regards the possibility of extending its scope to other areas/sectors and other types of plans and programmes,

¹ OJ L 103, 25.4.1979, p. 1. Directive as last amended by Directive 97/49/EC (OJ L 223, 13.8.1997, p. 9).

² OJ L 327, 22.12.2000, p. 1.

HAVE ADOPTED THIS DIRECTIVE:**Article 1****Objectives**

The objective of this Directive is to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.

Article 2**Definitions**

For the purposes of this Directive:

- (a) "plans and programmes" shall mean plans and programmes, including those co-financed by the European Community, as well as any modifications to them:
 - which are subject to preparation and/or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and
 - which are required by legislative, regulatory or administrative provisions;
- (b) "environmental assessment" shall mean the preparation of an environmental report, the carrying out of consultations, the taking into account of the environmental report and the results of the consultations in decision-making and the provision of information on the decision in accordance with Articles 4 to 9;

- (c) "environmental report" shall mean the part of the plan or programme documentation containing the information required in Article 5 and Annex I;
- (d) "the public" shall mean one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organisations or groups.

Article 3

Scope

1. An environmental assessment, in accordance with Articles 4 to 9, shall be carried out for plans and programmes referred to in paragraphs 2 to 4 which are likely to have significant environmental effects.
2. Subject to paragraph 3, an environmental assessment shall be carried out for all plans and programmes,
 - (a) which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and which set the framework for future development consent of projects listed in Annexes I and II to Directive 85/337/EEC, or
 - (b) which, in view of the likely effect on sites, have been determined to require an assessment pursuant to Article 6 or 7 of Directive 92/43/EEC.
3. Plans and programmes referred to in paragraph 2 which determine the use of small areas at local level and minor modifications to plans and programmes referred to in paragraph 2 shall require an environmental assessment only where the Member States determine that they are likely to have significant environmental effects.

4. Member States shall determine whether plans and programmes, other than those referred to in paragraph 2, which set the framework for future development consent of projects, are likely to have significant environmental effects.
5. Member States shall determine whether plans or programmes referred to in paragraphs 3 and 4 are likely to have significant environmental effects either through case-by-case examination or by specifying types of plans and programmes or by combining both approaches. For this purpose, Member States shall in all cases take into account relevant criteria set out in Annex II, in order to ensure that plans and programmes with likely significant effects on the environment are covered by this Directive.
6. In the case-by-case examination and in specifying types of plans and programmes in accordance with paragraph 5, the authorities referred to in Article 6(3) shall be consulted.
7. Member States shall ensure that their conclusions pursuant to paragraph 5, including the reasons for not requiring an environmental assessment pursuant to Articles 4 to 9, are made available to the public.
8. The following plans and programmes are not subject to this Directive:
 - plans and programmes the sole purpose of which is to serve national defence or civil emergency,
 - financial or budget plans and programmes.
9. This Directive does not apply to plans and programmes co-financed under the current respective programming periods¹ for Council Regulations (EC) No 1260/1999² and (EC) No 1257/1999³.

¹ The 2000-2006 programming period for Council Regulation (EC) No 1260/99 and the 2000-2006 and 2000-2007 programming periods for Council Regulation (EC) No 1257/99

² Council Regulation (EC) No 1260/99 of 21 June 1999 laying down general provisions on the Structural Funds (OJ L 161, 26.6.1999, p. 1.)

³ Council Regulation (EC) No 1257/99 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain regulations (OJ L 160, 26.6.1999, p. 80.)

Article 4

General obligations

1. The environmental assessment referred to in Article 3 shall be carried out during the preparation of a plan or programme and before its adoption or submission to the legislative procedure.
2. The requirements of this Directive shall either be integrated into existing procedures in Member States for the adoption of plans and programmes or incorporated in procedures established to comply with this Directive.
3. Where plans and programmes form part of a hierarchy, Member States shall, with a view to avoiding duplication of the assessment, take into account the fact that the assessment will be carried out, in accordance with this Directive, at different levels of the hierarchy. For the purpose of, inter alia, avoiding duplication of assessment, Member States shall apply Article 5(2) and (3).

Article 5

Environmental Report

1. Where an environmental assessment is required under Article 3(1), an environmental report shall be prepared in which the likely significant effects on the environment of implementing the plan or programme, and reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme, are identified, described and evaluated. The information to be given for this purpose is referred to in Annex I.
2. The environmental report prepared pursuant to paragraph 1 shall include the information that may reasonably be required taking into account current knowledge and methods of assessment, the contents and level of detail in the plan or programme, its stage in the decision-making process and

the extent to which certain matters are more appropriately assessed at different levels in that process in order to avoid duplication of the assessment.

3. Relevant information available on environmental effects of the plans and programmes and obtained at other levels of decision-making or through other Community legislation may be used for providing the information referred to in Annex I.
4. The authorities referred to in Article 6(3) shall be consulted when deciding on the scope and level of detail of the information which must be included in the environmental report.

Article 6

Consultations

1. The draft plan or programme and the environmental report prepared in accordance with Article 5 shall be made available to the authorities referred to in paragraph 3 of this Article and the public.
2. The authorities referred to in paragraph 3 and the public referred to in paragraph 4 shall be given an early and effective opportunity within appropriate time frames to express their opinion on the draft plan or programme and the accompanying environmental report before the adoption of the plan or programme or its submission to the legislative procedure.
3. Member States shall designate the authorities to be consulted which, by reason of their specific environmental responsibilities, are likely to be concerned by the environmental effects of implementing plans and programmes.
4. Member States shall identify the public for the purposes of paragraph 2, including the public affected or likely to be

affected by, or having an interest in, the decision-making subject to this Directive, including relevant non-governmental organisations, such as those promoting environmental protection and other organisations concerned.

5. The detailed arrangements for the information and consultation of the authorities and the public shall be determined by the Member States.

Article 7

Transboundary consultations

1. Where a Member State considers that the implementation of a plan or programme being prepared in relation to its territory is likely to have significant effects on the environment in another Member State, or where a Member State likely to be significantly affected so requests, the Member State in whose territory the plan or programme is being prepared shall, before its adoption or submission to the legislative procedure, forward a copy of the draft plan or programme and the relevant environmental report to the other Member State.
2. Where a Member State is sent a copy of a draft plan or programme and an environmental report under paragraph 1, it shall indicate to the other Member State whether it wishes to enter into consultations before the adoption of the plan or programme or its submission to the legislative procedure and, if it so indicates, the Member States concerned shall enter into consultations concerning the likely transboundary environmental effects of implementing the plan or programme and the measures envisaged to reduce or eliminate such effects.

Where such consultations take place, the Member States concerned shall agree on detailed arrangements to ensure that the authorities referred to in Article 6(3) and the public referred to in Article 6(4) in the Member State likely to be

significantly affected are informed and given an opportunity to forward their opinion within a reasonable time-frame.

3. Where Member States are required under this Article to enter into consultations, they shall agree, at the beginning of such consultations, on a reasonable timeframe for the duration of the consultations.

Article 8

Decision making

The environmental report prepared pursuant to Article 5, the opinions expressed pursuant to Article 6 and the results of any transboundary consultations entered into pursuant to Article 7 shall be taken into account during the preparation of the plan or programme and before its adoption or submission to the legislative procedure.

Article 9

Information on the decision

1. Member States shall ensure that, when a plan or programme is adopted, the authorities referred to in Article 6(3), the public and any Member State consulted under Article 7 are informed and the following items are made available to those so informed:
 - (a) the plan or programme as adopted;
 - (b) a statement summarising how environmental considerations have been integrated into the plan or programme and how the environmental report prepared pursuant to Article 5, the opinions expressed pursuant to Article 6 and the results of consultations entered into pursuant to Article 7 have been taken into account in accordance with Article 8 and the reasons for choosing the plan or programme

as adopted, in the light of the other reasonable alternatives dealt with, and

- (c) the measures decided concerning monitoring in accordance with Article 10.
2. The detailed arrangements concerning the information referred to in paragraph 1 shall be determined by the Member States.

Article 10

Monitoring

1. Member States shall monitor the significant environmental effects of the implementation of plans and programmes in order, inter alia, to identify at an early stage unforeseen adverse effects, and to be able to undertake appropriate remedial action.
2. In order to comply with paragraph 1, existing monitoring arrangements may be used if appropriate, with a view to avoiding duplication of monitoring.

Article 11

Relationship with other Community legislation

1. An environmental assessment carried out under this Directive shall be without prejudice to any requirements under Directive 85/337/EEC and to any other Community law requirements.
2. For plans and programmes for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Community legislation, Member States may provide for co-ordinated or joint procedures fulfilling the requirements of the relevant Community legislation in order, inter alia, to avoid duplication of assessment.

3. For plans and programmes co-financed by the European Community, the environmental assessment in accordance with this Directive shall be carried out in conformity with the specific provisions in relevant Community legislation.

Article 12

Information, reporting and review

1. Member States and the Commission shall exchange information on the experience gained in applying this Directive.
2. Member States shall ensure that environmental reports are of a sufficient quality to meet the requirements of this Directive and shall communicate to the Commission any measures they take concerning the quality of these reports.
3. Before 21 July 2006 the Commission shall send a first report on the application and effectiveness of this Directive to the European Parliament and to the Council.

With a view further to integrating environmental protection requirements, in accordance with Article 6 of the Treaty, and taking into account the experience acquired in the application of this Directive in the Member States, such a report will be accompanied by proposals for amendment of this Directive, if appropriate. In particular, the Commission will consider the possibility of extending the scope of this Directive to other areas/sectors and other types of plans and programmes.

A new evaluation report shall follow at seven-year intervals.

4. The Commission shall report on the relationship between this Directive and Regulations (EC) No. 1260/1999 and (EC) No. 1257/1999 well ahead of the expiry of the programming periods provided for in those Regulations, with a view to ensuring a coherent approach with regard to this Directive and subsequent Community Regulations.

Article 13

Implementation of the Directive

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 21 July 2004. They shall forthwith inform the Commission thereof.
2. When Member States adopt the measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.
3. The obligation referred to in Article 4(1) shall apply to the plans and programmes of which the first formal preparatory act is subsequent to the date referred to in paragraph 1. Plans and programmes of which the first formal preparatory act is before that date and which are adopted or submitted to the legislative procedure more than 24 months thereafter, shall be made subject to the obligation referred to in Article 4(1) unless Member States decide on a case-by-case basis that this is not feasible and inform the public of their decision.
4. Before 21 July 2004, Member States shall communicate to the Commission, in addition to the measures referred to in paragraph 1, separate information on the types of plans and programmes which, in accordance with Article 3, would be subject to an environmental assessment pursuant to this Directive. The Commission shall make this information available to the Member States. The information will be updated on a regular basis.

Article 14

Entry into force

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

Article 15

Addressees

This Directive is addressed to the Member States.

Done at Luxembourg, 27 June 2001.

For the European Parliament
The President
N. FONTAINE

For the Council
The President
B. ROSENGREN

ANNEX I

Information referred to in Article 5(1)

The information to be provided under Article 5(1), subject to Article 5(2) and (3), is the following:

- (a) an outline of the contents, main objectives of the plan or programme and relationship with other relevant plans and programmes;
- (b) the relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the plan or programme;
- (c) the environmental characteristics of areas likely to be significantly affected;
- (d) any existing environmental problems which are relevant to the plan or programme including, in particular, those relating to any areas of a particular environmental importance, such as areas designated pursuant to Directives 79/409/EEC and 92/43/EEC;

- (e) the environmental protection objectives, established at international, Community or Member State level, which are relevant to the plan or programme and the way those objectives and any environmental considerations have been taken into account during its preparation;
- (f) the likely significant effects¹ on the environment, including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors;
- (g) the measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the plan or programme;
- (h) an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information;
- (i) a description of the measures envisaged concerning monitoring in accordance with Article 10;
- (j) a non-technical summary of the information provided under the above headings.

ANNEX II

Criteria for determining the likely significance of effects referred to in Article 3(5)

1. The characteristics of plans and programmes, having regard, in particular, to

¹ These effects should include secondary, cumulative, synergistic, short, medium and long-term, permanent and temporary, positive and negative effects.

- the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,
 - the degree to which the plan or programme influences other plans and programmes including those in a hierarchy,
 - the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development,
 - environmental problems relevant to the plan or programme,
 - the relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste-management or water protection).
2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to
- the probability, duration, frequency and reversibility of the effects,
 - the cumulative nature of the effects,
 - the transboundary nature of the effects,
 - the risks to human health or the environment (e.g. due to accidents),
 - the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),

- the value and vulnerability of the area likely to be affected due to:
 - special natural characteristics or cultural heritage,
 - exceeded environmental quality standards or limit values,
 - intensive land-use,
- the effects on areas or landscapes which have a recognised national, Community or international protection status.

Appendix B

INTEGRATION OF SEA WITH THE PREPARATION OR REVIEW OF A DEVELOPMENT PLAN

Stage	Period	Development Plan process	SEA process
A	Between 6-12 months before the start of the statutory review period	<ul style="list-style-type: none"> Data collection Preparation of Working Papers/Issues Paper for Planning and Development Strategic Policy Committee 	<ul style="list-style-type: none"> Identification of relevant national and international environmental protection objectives Baseline environmental study Estimate of future environmental conditions in the absence of a new plan
B	Weeks 1-16 of the statutory period	<ul style="list-style-type: none"> Notification of intention to prepare / review Development Plan Initial public consultation process 	<ul style="list-style-type: none"> Scoping of Environmental Report with prescribed environmental authorities Further data collection
C	Weeks 16-38	<ul style="list-style-type: none"> Manager prepares report on the outcome of the initial consultations Members may issue directions re draft plan Preparation of draft plan 	<ul style="list-style-type: none"> Identification and environmental appraisal of strategic development options Detailed environmental assessment of preferred alternative Modification of preferred strategy (if needed) to avoid / reduce significant adverse effects Preparation of Environmental Report
D	Weeks 38-48	<ul style="list-style-type: none"> Manager submits draft plan to Council Members decide if any amendments to draft should be made 	<ul style="list-style-type: none"> Members consider Environmental Report Report may have to be modified if there are any major changes to the draft plan

Planning Guidelines

Planning Guidelines

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Stage Period	Development Plan process	SEA process
E Weeks 48-58	<ul style="list-style-type: none"> Public and statutory consultees may make written submissions on draft plan during the 10-week display period 	<ul style="list-style-type: none"> Public and environmental authorities may make written submissions on the Environmental Report / draft plan Transboundary consultations [if needed]
F Weeks 58-85	<ul style="list-style-type: none"> Manager reports to Council on submissions Members consider report and decide whether to adopt draft plan [Stage J, below] or to amend it 	<ul style="list-style-type: none"> Manager reports to Council on submissions Members consider report and decide whether to adopt the draft plan or to amend it Environmental Report may have to be modified if material amendments are proposed
G Weeks 85-89	<ul style="list-style-type: none"> Public and statutory consultees may make written submissions on material amendment(s) to draft plan during 4-week display period 	<ul style="list-style-type: none"> Public and environmental authorities may make written submissions on any likely significant environmental effects of material amendment(s) Further transboundary consultation [if needed]
H Weeks 89-99	<ul style="list-style-type: none"> Manager reports to Council on submissions Members consider report and decide whether to adopt or omit material amendment(s) 	<ul style="list-style-type: none"> Manager reports to Council on submissions received
I Weeks 99-104	<ul style="list-style-type: none"> Members adopt draft plan 	<ul style="list-style-type: none"> Public is informed of the decision, of the reasons why the preferred strategy was adopted, and of how consultations were taken into account Details of proposed monitoring measures published
J Weeks 104-108	<ul style="list-style-type: none"> New plan comes into operation 	<ul style="list-style-type: none"> Commencement of monitoring

Appendix C

Checklist of Policy Documents, Strategies, Guidelines, Directives, Conventions, etc which are relevant to the Setting of Environmental Protection Objectives [Schedule 2B(e) of the Planning and Development Regulations 2001 refers]

National:

- **The National Spatial Strategy (2002)**
(www.irishspatialplanning.ie) is based on the principles of sustainable development, and includes policies on environmental quality (e.g. chapter 5.5).
- **Sustainable Development: A Strategy for Ireland (1997)**
(www.environ.ie) is a useful compilation of sectoral objectives, many of which are of potential relevance to land-use planning.
- **Making Ireland's Development Sustainable: Review, assessment and future action (2002)** (www.environ.ie) contained a review of Ireland's 1997 Strategy for Sustainable Development and was published in advance of the World Summit on Sustainable Development in Johannesburg in 2002. It also included details of *Principles for Sustainable Development* (2002) (www.comhar-nsdp.ie) prepared by Comhar - the National Sustainable Development Partnership - which seeks to make sustainable development more relevant and practical in an Irish context.
- **National Climate Change Strategy (2000)** (www.environ.ie): Under the Kyoto Protocol, the overall EU target is to reduce greenhouse gas emissions by 8% (from 1990 levels) by 2012. Within this target, an EU burden-sharing agreement in 1998 recognised differing circumstances in Member States. This agreement allows Ireland an emissions target of +13% on 1990 levels. The Strategy provides an integrated, co-ordinated framework for achieving the national target.

- **Discussion Paper - Strategy to Reduce Emissions of Transboundary Air Pollution by 2010 (2003)**
(www.environ.ie): This paper sets out the background to national emission ceilings for certain air pollutants to be achieved by 2010, and current, planned and potential measures to achieve these ceilings.
- **National Biodiversity Plan (2002)** (www.environ.ie): This Plan, prepared in response to the UN Convention on Biological Diversity (see below), covers the three levels at which biodiversity may be considered, namely ecosystem diversity, species diversity and genetic diversity. The overall objective is to secure the conservation, including where possible the enhancement, and sustainable use of biological diversity in Ireland and to contribute to conservation and sustainable use of biodiversity globally.
- **National Heritage Plan (2002)** (www.npws.ie): In relation to heritage generally, this Plan forms the basis of a co-ordinated strategic approach to the protection and management of heritage up to 2007.
- **Framework and Principles for the Protection of the Archaeological Heritage (1999)** (www.environ.ie): This policy document seeks to ensure compliance with the 1992 European Convention on the Protection of the Archaeological Heritage (see below) by setting out the archaeological policies and principles which all public bodies should apply when undertaking or authorising development.
- **Changing Our Ways (1998)** (www.environ.ie): This policy statement provides a national policy framework for the adoption and implementation of strategic waste management plans, under which specific national objectives and targets would be attained.
- **Preventing and Recycling Waste: Delivering Change (2002)** (www.environ.ie): Building on “Changing Our Ways”, this policy statement provides for a range of actions to be taken

in order to achieve the Government's policy objectives for the prevention of waste and for the re-use and recycling of waste that is produced.

- **Taking Stock and Moving Forward (2004)** (www.environ.ie): The objective of this policy statement is two-fold: firstly it reviews progress that has been made in implementing the regional Waste Management Plans and secondly, it outlines a programme of “key points” to drive future implementation of those plans.
- **National Development Plan (NDP) 2000-2006 (1999)** (www.ndp.ie): The NDP is designed to strengthen and improve on Ireland’s international competitiveness in order to support continued, but more balanced, economic and social development. Its specific objectives are continuing sustainable national economic and employment growth; consolidating and improving Ireland's international competitiveness; fostering balanced regional development; and promoting social inclusion. The Plan is delivered through six operational programmes (OPs) - the Economic and Social Infrastructure OP; the Productive Sector OP; the Investment in Employment and Human Resources Development OP; two Regional OPs; and the PEACE Programme.
- **Managing Ireland's Rivers and Lakes: A Catchment-Based Strategy Against Pollution (1997)**: This document sets out a strategy to protect water quality against pollution by phosphorus from all sources.
- **Guidelines for Planning Authorities:**
 - **Wind Farm Developments (revised consultation draft - August 2004)** (www.environ.ie): Under the Kyoto Protocol, the EU is committed to reducing greenhouse gas emissions. By replacing carbon-based fuels in electricity generation, wind power can help limit CO₂ and other emissions associated with the generation of electricity. Ireland has one of the richest wind energy resources in Europe. Development Plans should

include acceptance of the importance of wind energy as a renewable energy source when carried out in an environmentally acceptable manner.

- **Residential Density (1999)** (www.environ.ie): In general, increased densities should be encouraged, particularly in town and city centres, “brownfield” sites, inner suburban/infill sites, outer suburban/“greenfield” sites, institutional lands, and in towns and villages, subject to appropriate design criteria.
- **Retail Planning (2000)** (www.environ.ie): Policy objectives include:
 - promoting forms of development which are easily accessible, particularly by public transport
 - supporting the continuing role of town and district centres.
- **Sustainable Rural Housing (consultation draft - March 2004)** (www.environ.ie): Subject to good planning practice, people with rural links are to be favoured for planning, as will any applicant applying for permission in an area suffering from population decline. Applicants for housing in rural areas must meet normal planning requirements in relation to matters such as the proper disposal of waste water and road safety. The guidelines also include recommendations concerning site selection and design of rural houses.
- **Telecommunications Antennae and Support Structures (1996)**. The Guidelines set out a locational hierarchy in relation to the siting of radio masts; only as a last resort, and if all the alternatives are either unavailable or unsuitable, should free-standing masts be located in a residential area or beside schools. Furthermore, only as a last resort should masts be located within or near small towns and villages; in the vicinity of large towns or city suburbs, developers

should strive to locate masts in industrial estates or industrial zoned land. The Guidelines are available by e-mail (planning@environ.ie).

- **Quarries and Ancillary Activities (2004)**
(www.environ.ie): The guidelines were published at the same time as the commencement of section 261 of the Planning and Development Act 2000, which introduces a once-off system of registration for quarries, except those for which planning permission was granted in the last 5 years. Under the registration system, quarry operators must supply full details of their operations to the relevant planning authority, by 27 April 2005. The guidelines offer guidance to planning authorities on making provision for the aggregates industry through the development plan and on applying the highest planning and environmental standards to applications for planning permission for quarrying activities. They are also intended as a practical guide to the implementation of section 261 of the Planning and Development Act 2000.

European:

- **EU Habitats Directive (92/43/EEC)** transposed into Irish law by the EU (Natural Habitats) Regulations 1997 (S.I. No. 94 of 1997). The Directive lists certain habitats and species that must be given protection in Special Areas of Conservation (SACs). Irish habitats include raised bogs, active blanket bogs, turloughs, sand dunes, machair (flat sandy plains on the north and west coasts), heaths, lakes, rivers, woodlands, estuaries and sea inlets.
- **EU Birds Directive (79/409/EEC)** The Directive, transposed into Irish law through the EU (Natural Habitats) Regulations 1997 (S.I. No. 94 of 1997), requires the designation of Special Protection Areas (SPAs) for:

- (a) listed rare and vulnerable species (such as whooper swan)
- (b) regularly occurring migratory species (such as ducks and geese)
- (c) wetlands, especially those of international importance, which attract large numbers of migratory birds each year.

SACs and SPAs collectively form part of “Natura 2000,” a network of protected areas throughout the EU.

- **EU Water Framework Directive (2000/60/EC)**
(www.wfdireland.ie) aims to prevent any deterioration in the status of any waters and to achieve at least “good status” in all waters by 2015. The Directive is transposed into Irish law mainly by the European Communities (Water Policy) Regulations 2003 (S.I. No. 722 of 2003). These Regulations require in respect of each River Basin District (at Article 12) the establishment, by 22 June 2009, by the relevant local authorities of environmental objectives and a programme of measures to meet those objectives and (at Article 13) the making of a River Basin Management Plan. The environmental objectives and the programme of measures must, *inter alia*, include appropriate measures to give effect to, and achieve the objectives of, Directives such as the Bathing Water Directive (76/160/EEC), the Birds Directive (79/409/EEC), the Groundwater Directive (80/68/EEC), the Drinking Water Directives (80/778/EEC and 98/82/EC), the Sewage Sludge in Agriculture Directive (86/278/EEC), the Nitrates Directive (91/676/EEC), the Major Accident (Seveso) Directive (96/82/EC) [see Annex VI of Water Framework Directive for the full list].
- **EU Urban Waste Water Treatment Directive (91/271/EEC)**
sets target dates for the provision of specified levels of waste water collection and treatment facilities to specified sizes of agglomeration.

- **EU Nitrates Directive (91/676/EEC)** requires an action programme with binding measures to protect waters against pollution by nitrates.
- **European Convention on the Protection of the Archaeological Heritage (1992)**: This establishes standards for the protection of the archaeological heritage. The Convention, which was ratified by Ireland in 1997, requires that appropriate consideration be given to archaeological issues at all stages of the planning and development process.
- **Granada Convention for the protection of the Architectural Heritage of Europe (1985)**: The Convention, which was ratified by Ireland in 1997, established common principles and obligations regarding identification of properties and the implementation of statutory protection procedures (such as those in Part IV of the 2000 Planning Act).
- **European Landscape Convention (2000)**: The Convention, which was ratified by Ireland in 2002, encourages public authorities to adopt policies at local, national and international level to protect and manage landscapes throughout Europe.

International:

- **Agenda 21 (1992)**: This was the main product of the UN Conference on Environment and Development held in Rio de Janeiro in 1992, which endorsed the concept of sustainable development. This required, inter alia, that environmental protection should constitute an integral part of the development process; the precautionary approach should be applied; that public access to environmental information and participation in decision-making should be facilitated; and that EIA should be undertaken for activities likely to have a significant environmental impact. **Local Agenda 21** aims to promote sustainable development at local and regional level.
- **Kyoto Protocol (1997)**: The Protocol commits the developed world to begin taking real action to combat climate change.

Industrialised countries have agreed legally binding targets to reduce their combined greenhouse gas emissions by at least 5% (compared to 1990 levels) by 2012. See **National Climate Change Strategy** above for Ireland's target.

- **Johannesburg Plan of Implementation (2002)** contains programmes of actions adopted at the World Summit on Sustainable Development in 2002.
- **UN Convention on Biological Diversity (1992)**: Ireland ratified the Convention in 1996, and has prepared a National Biodiversity Plan (see above) to reflect its requirements.
- **OSPAR Convention (1992)**: The Convention (which was ratified by Ireland in 1997) for the protection of the marine environment of the north-east Atlantic provides a comprehensive environmental protection regime, including all Irish coastal waters. All possible steps must be taken to prevent and eliminate pollution of the marine environment, including pollution from land-based activities.
- **ESPOO Convention (1991)**: The Convention (which was ratified by Ireland in 2002) aims to improve international co-operation in assessing the environmental impact of proposed major developments, where these developments are likely to have environmental effects in more than one State.
- **Protocol on Strategic Environmental Assessment (SEA) (2003)**: This Protocol to the Espoo Convention was signed by Ireland at the 5th Ministerial "Environment for Europe" Conference in Kiev in May 2003. It aims to provide for a high level of protection of the environment by ensuring that environmental considerations are taken into account in the development of plans and programmes.

Appendix D

Sources of Environmental Data

1. General

EPA, "Ireland's Environment, 2004" (www.epa.ie)

EPA, "Environment in focus 2002: Key environmental indicators for Ireland" (2002) (www.epa.ie);

OECD, "Environmental Performance Review: Ireland" (2000) (www.oecd.org)

2. Biodiversity, fauna and flora

Data	Sources
<ul style="list-style-type: none"> Special Areas of Conservation; Natural Heritage Areas; Special Protection Areas; Nature Reserves; National Parks Research on threatened birds and their habitats 	<ul style="list-style-type: none"> Department of the Environment, Heritage and Local Government (www.environ.ie)
<ul style="list-style-type: none"> RAMSAR sites (internationally important wetlands) 	<ul style="list-style-type: none"> www.ramsar.org
<ul style="list-style-type: none"> UNESCO Biosphere Reserves 	<ul style="list-style-type: none"> Ireland's two Reserves are Killarney National Park and North Bull Island, County Dublin (www.unesco.org)
<ul style="list-style-type: none"> Forest cover 	<ul style="list-style-type: none"> Forest Service (www.agriculture.gov.ie)
<ul style="list-style-type: none"> General 	<ul style="list-style-type: none"> Environmental Impact Statements (ENFO: e-mail: info@enfo.ie)

3. Population and human health

Data	Sources
Demographic Data	Census of Population (www.cso.ie)
Seveso II sites	Development Plan maps; Health and Safety Authority (www.hsa.ie)
Traffic counts	National Roads Authority (www.nra.ie); local authorities

Note: For health, see also under soil, water and air/climate factors

4. Soil

Data	Sources
Classification of soils	National Soil Survey of Ireland (www.teagasc.ie)
Contaminated soils	Environmental Impact Statements (ENFO: e-mail: info@enfo.ie)/site investigation data

5. Water

Data	Sources
River water quality; lake water quality; drinking water quality; groundwater quality; bathing water quality	Environmental Protection Agency (www.epa.ie); The EPA publishes regular reports on water quality monitoring and publishes regular reports on urban waste water discharges and on drinking water quality. Local authorities with “Blue Flag” beaches; ENFO Briefing Sheets (www.enfo.ie)
Urban waste water treatment	Local authorities
Aquifer/groundwater protection schemes	Geological Survey of Ireland (www.gsi.ie)

6. Air and climate factors

Data	Sources
<ul style="list-style-type: none"> Emissions of greenhouse gases; sulphur dioxide; nitrogen oxides; carbon monoxide; volatile organic compounds; airborne particulate matter (PM10); smoke concentrations in urban areas. 	<ul style="list-style-type: none"> Environmental Protection Agency (www.epa.ie). The EPA publishes annual air quality monitoring reports. Certain urban local authorities carry out air quality monitoring.

7. Material assets and cultural heritage

Data	Sources
<ul style="list-style-type: none"> Record of protected structures (RPS) and Architectural Conservation Areas Heritage Plans Heritage Appraisals of Development Plans National Inventory of Architectural Heritage (NIAH): <ul style="list-style-type: none"> (a) Town Surveys (b) Interim County Surveys Record of Monuments and Places (RMP): sites protected under the National Monuments (Amendment) Act, 1994 Archaeological County Inventory Series and survey of megalithic tombs Data on residential / commercial / industrial development Specific heritage data 	<ul style="list-style-type: none"> Development Plans City/County Councils Planning authorities/Heritage Council Local authority offices and public libraries Local authority offices, public libraries and Teagasc offices. RMP data is also available on: www.heritagedata.ie Available for consultation in public libraries or for purchase from the Government Publications Sales Office, Molesworth Street, Dublin 2 Planning authorities / Environmental Impact Statements (ENFO: e-mail: info@enfo.ie) Local amenity/local history groups

Note:

Databases on the “heritage data” website require users to have a database of their own to access the data. In addition, the map information contained in the Arcinfo export files requires Geographical Information System software to operate.

8. Landscape

Data	Sources
<ul style="list-style-type: none"> • Landscape character assessments • Landscape Conservation Areas • Tree Preservation Orders • Forest cover/ Indicative Forest Strategies 	<ul style="list-style-type: none"> • Development Plans • Planning authorities • Planning authorities • Forest Service (www.agriculture.gov.ie)

Note:

The Department of the Environment, Heritage and Local Government is not responsible for the contents of any of the websites listed above, other than its own (including ENFO).

Appendix E

Further Reading

“Development of Strategic Environmental Assessment Methodologies for Plans and Programmes in Ireland: Synthesis Report” (2003) Environmental Protection Agency/ERM Ireland Ltd. [The fuller Final Report can be downloaded from the EPA website: www.epa.ie]

“Implementation of Directive 2001/42 on the assessment of the effects of certain plans and programmes on the environment” (September 2003) European Commission. www.europa.eu.int/comm/environment

“Heritage appraisal of Development Plans: A methodology for planning authorities” (2000) Heritage Council. www.heritagecouncil.ie

“A Draft Practical Guide to the Strategic Environmental Assessment Directive” (July 2004) Office of the Deputy Prime Minister (UK). www.odpm.gov.uk

OMBUDSMAN ATTACHMENT

6. Notice of proposed variation to Kerry County Development Plan

<http://www.kerrycoco.ie/ballylongfordvariation.asp>

COMHAIRLE CONTAE CHIARRAÍ

KERRY COUNTY COUNCIL



COMHAIRLE CONTAE CHIARRAÍ

KERRY COUNTY COUNCIL

PUBLIC NOTICE

PLANNING AND DEVELOPMENT ACTS 2000 - 2006

NOTICE OF PROPOSED VARIATIONS OF THE KERRY COUNTY DEVELOPMENT PLAN 2003 - 2009

Kerry County Council, pursuant to the provisions of Section 13 of the Planning and Development Act, 2000, (as amended), has prepared a variation of the Kerry County Development Plan 2003 - 2009 as follows:-

To rezone 188.8ha (466.53 acres) of land, comprising 105ha (261.43acres) currently zoned as Rural General and 83ha (205.1 acres) currently zoned as Secondary Special Amenity, in the townlands of Reenturk, Rallappane and Kilcolgan Lower, to Industrial zoning.

Reason: The purpose of this variation is to facilitate consideration of suitable development on these lands in accordance with the provisions of section 5.2.9 of the Kerry County Development Plan 2003 – 2009 which states: 'Lands have been identified at Ballylongford / Tarbert as suitable for development as a premier deepwater port and for major industrial development and employment creation'

Objective ECO 5-5 of The Kerry County development Plan 2003-2009 states 'It is an objective of Kerry County Council to identify lands in key strategic locations that are particularly suitable for development that may be required by specific sectors. Land in such locations will form part of a strategic reserve that will be protected from inappropriate development that would prejudice its long-term development for these uses'

A copy of the proposed variation may be inspected during office hours (9.00a.m. - 5.00 p.m.) from Wednesday 7th February, 2007 to Thursday 8th March, 2007, both dates inclusive, at :-

- The Planning Department, County Buildings, Tralee
- The County Council Offices, Bridge Road, Listowel.

Observations and submissions in respect of the proposed variation should be made in writing, addressed to Lorraine Sheehan, Planning Department, Kerry County Council, Áras an Chontae, Tralee and marked 'Submission - Variation to the County Development Plan, Ballylongford / Tarbert' to be received before 4.00 p.m. on Thursday 8th March 2007, and will be taken into consideration before the making of the variation.

Kerry County Council
Rathass, Tralee, Co. Kerry, Ireland
Tel: +353 066 7183500 Fax: +353 066 7129764
E-mail: kcc@kerrycoco.ie
Webdesign: webteam@kerrycoco.ie

OMBUDSMAN ATTACHMENT

7. Ballylongford Screening Report

STRATEGIC ENVIRONMENTAL ASSESSMENT

Screening Report

Report Pursuant to Article 13k Planning And Development (Strategic Environmental
Assessment) Regulations 2004

**Kerry County Council Development Plan
2003-2009
Proposed Variation**

November 2006

1.0 INTRODUCTION

Kerry County Council intend to make a variation to the Kerry County Development Plan 2003 under Section 13 of the Planning and Development Act 2000(as amended). The purpose of this screening report is to consider whether the proposed variation requires Strategic Environmental Assessment (SEA) in terms of the Provisions of Article 13k of The Planning and Development (Strategic Environmental Assessment) Regulations 2004. It shall consider whether or not the proposed variation is likely to have significant effects on the environment.

2.0 PROPOSED VARIATION

The proposed Variation is to amend the Kerry County Development Plan 2003 - 2009 to rezone lands of 188.8 hectares from its current zoning of 'Rural General' and 'Rural Secondary Special Amenity' to 'Industrial'.

3.0 CONTEXT

The area of land proposed for rezoning is located on the Ballylongford Land Bank in North County Kerry to the Northeast of the village of Ballylongford and to the West of Tarbert Village. The lands border Ballylongford Bay, which forms part of the Shannon Estuary.

The council's objective in proposing this variation is to ensure that sufficient land is zoned for industrial use throughout the county. The lands proposed for variation are currently zoned Rural General (106.15 ha.) and Rural Secondary Special Amenity (82.65 ha.). The *Rural General* zoning designation refers to rural landscapes that generally have a higher capacity to absorb development than other rural zoning designations. The *Rural Secondary Special Amenity* designation refers to areas which are generally sensitive to development proposals.

4.0 MANDATORY REQUIREMENTS

In terms of SI No. 436 of 2004 Planning and Development (Strategic Environmental Assessment) Regulations 2004 where a planning authority proposes to make a variation of a development plan under section 13K of the Act it shall consider whether or not the proposed variation would be likely to

have significant effects on the environment. An assessment of the Proposed Variation in terms of the criteria set out in Schedule 2A of the Regulations is set out in Section 5. below.

5.0 ASSESSMENT IN TERMS OF SCHEDULE 2A OF THE PLANNING AND DEVELOPMENT (STRATEGIC ENVIRONMENTAL ASSESSMENT) REGULATIONS 2004

1.0	The Characteristics Of The Plan Having Regard In Particular To;
1.1	<p>The degree to which the plan sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,</p> <p>The variation does not set a framework for projects and other activities, rather it responds to the comprehensive development framework set out in the Kerry County Development Plan 2003 - 2009. This plan sets out policies and objectives to ensure the proper and sustainable development of the County. Through the zoning process, a framework is established for the location of particular land uses and types of development.</p> <p>Any proposed development of the lands will have regard to the general planning, design and environmental standards and criteria and all relevant policies and objectives set out in the Kerry County Development Plan 2003 – 2009 and relevant National and European guidance.</p>
1.2	<p>The degree to which the plan influences other plans, including those in a hierarchy,</p> <p>The variation does not influence other plans, rather it responds to the standards and guidelines set down in the National Planning Policy Hierarchy.</p>
1.3	<p>The relevance of the plan for the integration of environmental considerations in particular with a view to promoting sustainable development,</p> <p>Any development undertaken as a result of this variation will be required to comply with the environmental standards and guidelines set out in local, national and European policy documents. As the statutory plan for the area, the Kerry County Development Plan 2003 –</p>

2009 which was prepared under the Planning and Development Acts 2000-2004, will guide the integration of environmental and sustainability considerations into development proposals for the lands.

The current Kerry County Development Plan 2003 – 2009 outlines a number of provisions to ensure the integration environmental considerations into development proposals and promote of sustainable development in the County. (See below).

- *Employment & Economic Activity:* Policy objective ECO 5-24 seeks 'the integration of environmental considerations into the proposed new developments'.
- *Environmental Protection:* The council ensures environmental protection and prevention of pollution under policy objective EN 10-1 ensures that '*all necessary measures to prevent pollution in order to maintain the maximum quality of the environment of County Kerry*' should be taken.
- *Groundwater Protection:* Policy Objective EN 10 – 12 ensures all planning applications within 300m of any public or group scheme groundwater source will be assessed in terms of their potential impact on the water quality of that source. Additionally cumulative impacts of planning applications on existing groundwater schemes will also need to be considered.
- *Air Quality:* The objective of policy EN 10 – 16 is to ensure that the air quality of County Kerry is in accordance with prescribed standards. Therefore any new Industrial developments on the proposed subject lands will not adversely affect air quality.
- *EU and National Designations:* Kerry County Council strongly support the protection of EU and National Designations in County Kerry through the creation of regulatory policies in order to safeguard against adverse affects on these designated lands. Policy objective EN 10 – 18 ensures '*that any development proposal in the vicinity of or affecting in any way a designated SAC, SPA or NHA provides sufficient information showing how its proposals will impact on the habitat and appropriate amelioration will be indicated*'. It is a also an objective of Kerry County Council under policies EN 10 – 19, EN 10 – 20 and EN 10 –21 to maintain the conservation value of those sites identifies by Duchas, The Heritage Service, as Special Areas of Conservation, Special Protection Areas and Natural Heritage Areas.
- *Coastal Management:* Part of the proposed variation lands are located within the Coastal Development zone however there are a number of Policy objectives safeguarding against any environmental impacts on this area. Policy objective EN10 – 27 ensures that all applications for development are assessed '*both individually and cumulatively, within the designated Coastal Development Zone*'. Also, '*Developments will be judged in terms of their*

	<p><i>potential impact on natural and cultural heritage whilst considering potential risks from flooding and erosion.’ In addition policy objective EN 10 – 30 ensures the ‘precautionary principle’ is taken, and prohibits ‘developments that pose a significant or potential threat to the coastal environments.’</i></p>
1.4	<p>Environmental problems relevant to the plan,</p> <p>Possible environmental issues arising from the proposed rezoning relate to the impact of future development in terms of the capacity on the water supply and sewerage network, traffic and visual amenity.</p> <p>At this point in time, no specific significant environmental problems can be identified in relation to the above issues. Any proposed developments on the lands would be subject to assessment under the development control process and required to have regard to the general planning, design and environmental standards and policies set out in the Kerry County Development Plan 2003 – 2009</p> <p>Furthermore, it is considered that any environmental problems likely to arise would be resolved through Environmental Impact Assessment legislation. An EIS will be required if any project or development exceeds the specified thresholds under Part X of the Planning and Development Act 2000 and Schedule 5 Part 2 (12) of the Planning and Development Regulations 2001.</p> <p>With regard to services and traffic, any proposed development on the site would be subject to the availability/provision of water, surface water and sewerage facilities. Given the likelihood of mitigation measures being put in place and adherence to best practice in developing on site solutions with regard to drainage, traffic management and waste water treatment it is considered unlikely that there will be significant environmental impacts.</p> <p>It is considered that there is potential for significant visual impact, this however can also be mitigated against through the incorporation of design solutions and adherence to development control standards.</p>
1.5	<p>The relevance of the plan for the implementation of European Union legislation on the environment (e.g. plans linked to waste-management or water protection).</p>

	<p>While the lands are not subject to any designations, they are located in proximity to a number of areas designated for protection under national and EU Legislation. The Lower River Shannon is designated as a 'candidate SAC' (ref; 00216) and NHA (ref;001332), while the River Shannon and River Fergus Estuaries contain areas designated as SPAs.</p> <p>It is considered, given the size and extent of areas designated, the localised nature of the lands to be rezoned and the mitigation measures required by the policies and standards outlined in local and national planning guidance, that there is unlikely to be significant environmental impacts on these areas.</p>
--	--

2.0	Characteristics Of The Effects and Of The Area Likely To Be Affected, Having Regard, In Particular to;
2.1	<p>The probability, duration, frequency and reversibility of the effects.</p> <p>The industrial zoning objective will be in place until 2009. In 2007 the status of the zoning will be reviewed as part of the preparation of a new County Development Plan in 2009.</p> <p>It is anticipated that the policies, objectives and principles adopted as part of the Kerry County Development Plan 2003 - 2009 will ensure that the duration, frequency and irreversibly of the effects resulting from the proposed variation on the existing environment will not be significant.</p>
2.2	<p>The cumulative nature of the effects,</p> <p>It is considered that there is potential for some cumulative impacts due to the extent of land to be rezoned. However, given the likely phased basis of development and the provision of appropriate mitigation measures through the development control process it is considered that cumulative impacts can be mitigated against.</p>
2.3	<p>The transboundary nature of the effects,</p> <p>It is considered that there will not be any transboundary effects on the environment as a</p>

	result of the Proposed Variation.
2.4	<p>The risks to human health or the environment (e.g. due to accidents),</p> <p>The risk to human health will be dependant on the nature and type of industry proposed in the area. However given the distance to the nearest settlements (Ballylongford 2.3km and Tarbert 3.9km) and the standards controlling the development and operation of industries it is not considered that the proposed variation would pose any particular risks to human health in the context of accidents.</p> <p>Development control and policy and objectives contained within the Kerry County development Plan 2003 - 2009 (outlined above in section 5 1.4) will ensure appropriate assessment of any development on the lands. Additionally, polluting industries are subject to Environmental Protection Agency licensing.</p> <p>An EIS will be required if any project or development exceeds any one of the specified thresholds under Part X of the Planning and Development Act 2000 and Schedule 5 Part 2 (12) of the Planning and Development Regulations 2001 set out the statutory requirements in relation to the need for Environmental Impact Assessment.</p>
2.5	<p>The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),</p> <p>The area of land to be rezoned under the proposed variation is 188.8 hectares. In the 2002 census Ballylongford had a population of 405 persons with Tarbert village at 805 persons (2006 figures not available). It is therefore considered that the magnitude and spatial extent of the likely effects are not significant in the context of the geographical area and population likely to be affected.</p>
2.6	<p>The value and vulnerability of the area likely to be affected due to:</p> <ul style="list-style-type: none"> • Special natural characteristics or cultural heritage, • Exceeded environmental quality standards or limit values, • Intensive land-use,

	<p>No likely significant effects on either special natural characteristics or cultural heritage are anticipated.</p> <p>Part of the area is zoned as a Secondary Special Amenity Area, which is 'generally' sensitive to development', however it is not designated under national or EU legislation.</p> <p>There are no protected structures on the lands. However there are two sites listed on the 'Record of Monuments and Places' (ref; Reenturk and KE 003 014). It is likely that there will be an impact on these.</p> <p>Development of the site shall be subject to an application for planning permission and no development shall be permitted which would exceed environmental quality standards or limit values.</p>
2.7	<p>The effects on areas or landscapes which have a recognised national, European Union or international protection status</p> <p>While the lands are not located within SAC, SPA or NHA the northern boundary is adjacent to the Ballylongford SAC and the Shannon Estuary SPA and NHA.</p> <p>The variation is not regarded as having any significant effect on these designated areas as regulatory policy measures have been put in place within the Kerry County Development Plan in order to safeguard and mitigate against development proposals in the vicinity of or affecting in any way a designated SAC, SPA or NHA.</p>

6.0 STATUTORY CONSULTATION

In line with the requirement under Section 13A (4) is proposed to consult with the following authorities;

- The Environmental Protection Agency (EPA)
- The Department of the Environment, Heritage and Local Government (DEHLG)
- The Department of Communications, Marine and Natural Resources (DCMNR).

7.0 DETERMINATION IN TERMS OF ARTICLE 13K

In terms of the provisions of Article 13K of the Regulations, following the appropriate consultation period the planning authority shall determine whether or not implementation of the Proposed Variation would be likely to have significant effects on the environment, taking account of relevant criteria set out in Schedule 2A of the Regulations (see section 5 above) and any submission or observation received from the environmental authorities (see section 6 above).

8.0 CONCLUSION

On balance it is considered that the Proposed Variation is not likely to have significant effects on the environment for the reasons detailed above. It is proposed to initiate the procedures for the variation of the Kerry County Development Plan in order to facilitate balanced growth by the promoting the strengthening of rural communities by facilitating job creation, decrease in numbers that commute to work and improvement of services.

The policy and objectives contained within the Kerry County Development Plan 2003 - 2009 will ensure the appropriate assessment of any proposed developments on the lands so as to prevent any adverse effects. The nature of the proposed variation is considered to be relatively minor. Therefore it does not appear that there is a need for a SEA in this instance as the proposed variation is unlikely to result in development which would have significant effects on the environment.

OMBUDSMAN ATTACHMENT

8. Email Communication with Kerry County Council

From: Tom Sheehy [mailto:tsheehy@kerrycoco.ie]
Sent: 16 November 2007 16:47
To: Adam Kearney Associates
Subject: RE:

Adam,
Our registered post file indicates that the screening report was sent to them on 5/12/06

Regards

Tom Sheehy

-----Original Message-----

From: Adam Kearney Associates [mailto:info@akassociates.ie]
Sent: 16 November 2007 15:06
To: Tom Sheehy
Subject: RE:

Tom,
The EPA got back to me just now I contacted them yesterday. They did not receive the SEA screening report it is not in their office and they have no record of it on their tracking system. Can you comment?
Regards,
Adam

Receipt of Ballylongford Sceening Report:

From: Tom Sheehy [mailto:tsheehy@kerrycoco.ie]
Sent: 16 November 2007 14:46
To: info@akassociates.ie
Subject:

Adam,
As requested

Regards

Tom

From: Adam Kearney Associates [mailto:info@akassociates.ie]
Sent: 16 November 2007 11:40
To: Kena Felle
Cc: McElligott, John
Subject: SEA Screening Report

16/11/07

Dear Kena,

I would like to know if a SEA (Strategic Environmental Assessment) screening report was compiled by Kerry County Council for Variation No. 7 of the County Development (To rezone 188.8ha (466.53 acres) of land, comprising 105ha (261.43 acres) currently zoned as Rural General and 83ha (205.1 acres) currently zoned as Secondary Special Amenity, in the townlands of Reenturk, Rallappane and Kilcolgan Lower, to Industrial zoning). If so I would like a copy of same It was stated in the County Managers report on Variation No. 7 in response to a submission by Clare County Council that a copy of the SEA screening report

would be sent to them. Yesterday I spoke with the Senior Executive Planner John Bradley who made the submission on behalf of Clare County Council, he informed me that they had not received a screening report. I also contacted the EPA who cannot confirm receipt of the report either. As the deadline for public submissions to An Bord Pleanala for the proposed Regasification Terminal in Tarbert is this evening at 5 pm I am extremely restricted on time and need clarification on this issue. If it is the case that an SEA screening report was not conducted for a variation to a development plan then the validity of the rezoning has to be questioned. Under Statutory Instrument No 436 Article 7 section 13K and article 12 Schedule 2A of the same Statutory Instrument 2004 legislation it is quite clear on the procedures required for making a variation to a plan.

Yours Sincerely,

Adam Kearney

OMBUDSMAN ATTACHMENT

- 9. Minutes of June 20th 2006 Meeting of Kerry County Council**

**MINUTES OF THE ORDINARY MEETING OF KERRY COUNTY COUNCIL
HELD IN THE COUNCIL CHAMBER, ÁRAS AN CHONTAE, TRALEE ON
MONDAY 19TH JUNE, 2006.**

***MIONTUAIRISCÍ NA CRUINNITHE MHIOSIÚIL DE COMHAIRLE CONTAE
CHIARRAÍ A THIONÓLADH I SEOMRA NA COMHAIRLE, ÁRAS AN
CHONTAE, TRÁ LÍ, AR AN LUAN, 19 MEITHEAMH, 2006.***

PRESENT/I LÁTHAIR

Councillors/Comhairleoirí

**R. Beasley
M. Cahill
T. Ferris
T. Fleming
D. Healy-Rae
B. MacGearailt
C. Miller
J. O'Connor
L. Purtill**

**J. Brassil
M. Connor-Scarteen
S. Fitzgerald
N. Foley
M. Healy-Rae
P. McCarthy
T. O'Brien
M. O'Shea
T. Sheahan**

**T. Buckley
B. Cronin
T. Fitzgerald
M. Gleeson
P. Leahy
A. McEllistrim
B. O'Connell
N. O'Sullivan**

IN ATTENDANCE/I LÁTHAIR

**Mr. M. Riordan, County Manager
Mr. O. Ring, Dir of Env't & W.Services
Mr. J. Breen, Dir. of Hsg.Comm& Ent.
Mr J. Flynn, Dir. of Corporate Services
Mr Liam Brosnan, S.S.O. Environment
Mr Brian Sweeney, S.E. Environment
Ms. B. Reidy, S.S.O. Corp. Services**

**Mr. J. O'Connor, Head of Finance
Mr. T. Curran, County Engineer
Mr. P. O'Sullivan, Director of Env.
Mr. C. O'Sullivan, SEO Corporate Serv.
Mr Michael O'Coilean, Environment
Mr Ger O'Brien, A.O. Environment
Ms. K. O'Donoghue, CO Corp. Serv.**

The meeting commenced at 10.45am.

The Mayor Cllr. T. Ferris took the Chair.

06.06.19.01 Mayor's Report on the CPG Meeting held on the 15th June 2006

The Mayor read the following report into the record of the meeting.

1. *Mr C. O'Sullivan, S.E.O., briefed the meeting on the agenda for the June meeting.*
2. *Ms C. Brosnan, S.E.O., informed the meeting that a meeting of the CDB was held on 19th May at which the following issues were considered.*

- *The membership of the monitoring group, to oversee the implementation of the strategic objectives of the Board was agreed i.e. the group to be made up of the members of the steering group plus 2 other members.*
 - *Members gave a positive appraisal of the 2 day planning session held the previous month.*
 - *The lead partners were asked to identify individuals to sit on the Task Implementation Group.*
 - *It was agreed that the SEO would ask the Commission on Education to receive a submission on the Department of Education Draft Area Development Plan for North Kerry.*
 - *It was agreed that the Social Inclusion Measures Sub Group would take responsibility for the preparation of an integrated Traveller Strategy. The Board will monitor the preparation of this document.*
3. *Ms J. McCarthy, A/ Director of Planning, informed the meeting that the preparation of the Tralee and Killarney Environs Plans was delayed but it was hoped that they will be ready by September. The Draft Hub Settlement Plans will be put out on public display at the end of June and it is intended to hold a series of public consultations meetings at different locations to facilitate the general public.*
4. ***(a) Update on the Environment SPC***
Cllr. J O'Connor informed the meeting that at the last Environment SPC meeting the following issues were discussed.
- *Issuing of discharge licences.*
 - *The Draft Water Services Assessment of Needs.*
 - *Establishment of a competition in conjunction with the Kerryman for the most improved town. He called on all members to support this competition and to get involved with it.*
- (b) Update on the Planning SPC***
Cllr B. Cronin informed the meeting that the Draft Local Area Plan for the Hub Settlements would be put on public display at the end of June. A special meeting of the Planning SPC to consider the Telecommunications issue will be held hopefully by the end of July.
5. *Mr. J. O'Connor, Head of Finance, briefed members on the Report of the Local Government Auditor on the accounts of Kerry County Council for the year ended 31st December, 2004.*

Vote of Sympathy

Cllr M Healy-Rae extended a vote of sympathy to the Haughey family on the death of the Charles J Haughey, former Taoiseach. Mr Haughey was a great to Kerry for many years and he was glad he was afforded a state funeral.

Cllr J Brassil SECONDED this vote of sympathy.

All Members present said they wished to be associated with this expression of sympathy.

Emergency Motion

Cllr T Fitzgerald PROPOSED that the Members of the Tralee Electoral Area request Kerry County Council to seek an immediate meeting with the NRA and Minister Dick Roche in connection with the funding of the Ring-Roads for Tralee. He stated that this is a major project for Tralee and up to December 2005 he understood that the CPO would commence in January 2006. However, it appears that there is no progress on this project. This is completely unacceptable and he called on Oireachtas Members and MEP's for the Munster area to become involved in ensuring that this is a priority at national level.

Cllr P McCarthy SECONDED this proposal and said that the County Engineer and the staff of the National Roads Design Office in Castleisland have done everything within their power to progress this project. But unfortunately they have been frustrated in their efforts. He believed that Oireachtas Members in the county should be able to pursue this at national level.

Mr T Curran, County Engineer, informed the meeting that the CPO for the Castleisland By-Pass was confirmed by An Bord Pleanala last week and was awaiting approval from the NRA to proceed to the next phase. The provision of the new Ring-Road is now his main concern as he understands that government policy is to give priority to the four main corridors out of Dublin together with the Western Corridor. The vast majority of roads allocation will be targeted at these projects. A recent traffic count of the main road into Tralee exceeded 17,000 vehicles per day. This road was designed for traffic of 16,800 vehicles per day. If a Ring-Road is not provided the new road will be futile. This project is a priority for Kerry County Council but it does not appear to be a priority nationally.

Cllr M Healy-Rae requested that when a Notice to Treat is being issued to landowners in connection with the Castleisland By-Pass that the County Engineer ensure that where land had a site value that this be taken in account.

06.06.19.02 Confirmation of Minutes

On PROPOSAL of Cllr M Healy-Rae, SECONDED by Cllr T Fitzgerald, it was resolved that the Minutes of the Ordinary Meeting of Kerry County Council held on the 15th May 2006 be confirmed.

06.06.19.03 Disposal of Property

- a) On the PROPOSAL of Cllr M Cahill, SECONDED by Cllr T Fitzgerald, it was resolved to dispose of site R-2 consisting of the plot measuring .0013 hectares approximately at Iveragh Road, Killorglin to Laune Properties Ltd, Daly's Lane, Killorglin in accordance with the terms of notice issued the 6th June 2006 pursuant to Section 183 of the Local Government Act 2001.

- b) On the PROPOSAL of Cllr P McCarthy, SECONDED by Cllr M O'Shea, it was resolved to dispose of a plot of land measuring 1.6 acres approximately at Brackloon, Annascaul to Clúid Housing Association in accordance with the terms of notice issued the 6th June 2006 pursuant to Section 183 of the Local Government Act 2001.

Cllr M O'Shea requested that prior to the commencement of this development that the entrance to Brackloon Estate be widened substantially.

- c) On the PROPOSAL of Cllr M O'Shea, SECONDED by Cllr P McCarthy it was resolved to dispose of a house and plot at 28 Kilcolman, Milltown to Donal & Catherine McCarthy, 24 Carriag an Dúin, Milltown in accordance with the terms of notice issued the 2nd June 2006 pursuant to Section 183 of the Local Government Act 2001.
- d) On the PROPOSAL of Cllr R Beasley, SECONDED by Cllr N Foley, it was resolved to dispose of a plot of land measuring 1.123 acres approximately at Coolnagraigue, Lislaughtin to Catherine Enright Ahern, Lislaughtin, Ballylongford in accordance with the terms of notice issued the 18th May 2006 pursuant to Section 183 of the Local Government Act 2001.

06.06.19.04 Reports in accordance with Section 179(3) of the Planning & Development Act 2000

a) Civic Amenity Facility at An Daingean

Mr. P. O'Sullivan, Director of Environment, referred Members to report dated 12th June 2006 on this item which was circulated and he briefed them on the report. He stated that the report relates to the provision of a Civic Amenity Facility for An Daingean which would be located a few miles outside the town in the direction of Lispole. No submissions were received and he was seeking the support of Members to proceed with the provision of this facility.

On the PROPOSAL of Cllr S Fitzgerald, SECONDED by Cllr M O'Shea, it was resolved that the proposed development of the Civic Amenity Facility for An Daingean would proceed in accordance with Section 179(3) of the Planning & Development Act 2000 and Part VIII of the Local Government Planning & Development Regulation 2001.

Cllr. N. O'Sullivan asked if there would be a facility for domestic refuse at the civic amenity facility for An Daingean.

Mr. P. O'Sullivan, Director of Environment, confirmed that there would.

b) Civic Amenity Facility at Listowel

Mr. P. O'Sullivan, Director of Environment, referred Members to report dated 12th June on this item which was circulated and he briefed them in detail on the

report. This facility would allow for the disposal of domestic waste, recyclable materials, electrical goods and also hazardous goods such as batteries, paint, etc. These items would only be those generated by domestic households. It would also facilitate the disposal of green waste including hedge trimming. It is the intention of the Environment Department to build on the existing network of Civic Amenity Facilities around the county. The Transfer Stations and Civic Amenity sites already in place are well supported by the general public especially those who have small amounts of waste. These facilities have increased the amount of recycling substantially. He then briefed Members on the two submissions received from Pierse & Fitzgibbon Solicitors, Listowel and Listowel Celtic AFC and he also outlined the response to these submissions. He stated that Mr. B. Sweeney, S.E. Environment, met with local residents to address their concerns and he also attended a recent Listowel Town Council meeting to brief members on it. Kerry County Council has been actively seeking a suitable site in Listowel for the past five years and it is felt that this site is very suitable as it is within an industrial estate and Listowel Mart is also located there. He understood that grant-aid of approx. €900,000 would be available to develop this facility from the Department and the total cost involved would be in the region of €1m - €1.5m.

Cllr. N. O'Sullivan complimented Mr. O'Sullivan and Mr. Sweeney on their efforts to secure a Civic Amenity Facility for the North Kerry region. Unfortunately he felt that they had opted for the most unsuitable site that was identified throughout the five year period. He welcomed the residents of Tanavalla to the meeting who are concerned for their own locality as it is a residential area. They are a very balanced and reasonable group and they never objected to Kerry Group in their area. When Listowel Mart moved to the area it was also embraced by the local community. However, they are not in a position to support the executive decision to locate the Civic Amenity facility at this location. It was only recently that public representative became aware that domestic refuse would be accepted at this site. Together with his colleagues he visited Newcastlewest Civic Amenity Facility which was an excellent facility but it does not accept domestic refuse. He also noted that the proposed Civic Amenity Facility for Dingle will be located three miles from the town. Tanavalla is just one mile from Listowel town and is in fact a suburb and growth area for Listowel. The Tralee road is one of the few areas suitable for development in the Listowel area and he believed that there was inadequate consultation with local residents on this issue. He would not be willing to accept this site as a Civic Amenity Facility for Listowel.

Cllr. T. Buckley supported the sentiments expressed by Cllr. O'Sullivan and said that the residents in this area have a genuine grievance as it is proposed to accept domestic refuse at this facility and he felt this was unsuitable in a residential area.

Cllr. P. Leahy supported Cllr. O'Sullivan and also welcomed the deputation to the Chambers. Members were first informed of this proposed site in April 2005 at which time Members proposed that the old landfill site at Ahascra would be

allowed to remain open. He understood there was particular legal difficulties with this proposal but he felt that this site could have been developed as a Civic Amenity Facility. He was concerned that there was inadequate consultation with local residents prior to the planning process and the site notice was not visible from the public road. He was opposed to this development.

Cllr. A. McEllistrim welcomed the residents of Tanavalla to the Chamber and she said that she recently attended a public meeting on this issue in Listowel. She acknowledged that it is very difficult to find a suitable location for such a facility but she felt that the site now proposed was not suitable. If the site notice was placed on the main road she believed that additional submissions would have been received. Local residents are concerned that this facility would attract vermin and will result in traffic congestion. They are also concerned that because the facility would be off the main road it could result in illegal dumping in the area. In conclusion she said that she could not support the provision of the facility at this location.

Cllr. N. Foley stated that from the residents point of view the present site is being foisted on them and there are approx. 30 houses in the vicinity. This community has welcomed other developments but they have taken a stand in relation to this facility. They are concerned that it will result in a traffic hazard and noise pollution and the essence of democracy is that there is good consultation. She felt, however, that there was inadequate consultation in this instance. It is the duty of elected members to support local communities and she would not be supporting the location of a Civic Amenity Facility at this location.

Cllr. J. Brassil stated that it was peculiar that the residents near the four existing civic amenity centres are seeking to have these facilities extended. As long as he was in the council officials have been actively seeking a suitable site for a civic amenity facility for Listowel. This site was brought to the attention of the members over a year ago and all councillors welcomed it at that time and officials were given the go ahead to acquire the site. Members were continuously updated of developments in relation to this project at each area meeting throughout the past 18 months and no objections were raised by members. When the landfill site at Ahascra was closed members were up in arms because this facility was very important for North Kerry. He understood, however, that it had to be closed as the EPA would not licence it. The proposal to accept domestic refuse was highlighted for members at a previous area meeting and he had some reservations with regard to that element of the proposal. He supported the residents in this regard. However, officials have gone through a very lengthy process in trying to identify a suitable site and there is a great need for this facility. Where such facilities are in existence they are very beneficial for the local community and there was unanimous support amongst the members of the Dingle Electoral Area for the proposed new facility for Dingle. He believed that if this site is not developed as a civic amenity facility it will be virtually impossible to get an alternative site in North Kerry. He suggested that if the proposals before the

members are not acceptable that a decision be deferred to allow negotiations to remove the domestic element from the proposals. Local residents should also be encouraged to visit the facility in Newcastlewest to allay their fears.

Cllr. L. Purtill indicated his unequivocal support for the residents of the area in relation to this project. In particular, with regard to proposals to accept domestic refuse at this facility. He then read the following letter into the record of the meeting which was read at a recent meeting convened by the residents.

“We the residents, landowners and business people of Tanavalla object to the development of a civic amenity centre with domestic skip at the Tanavalla Industrial Estate. We have made an object through out Solicitor, Mr. Michael Fitzpatrick of Pierce and Fitzgibbon & Associates of Listowel.

There has been no consultation with the residents regarding this proposal; no planning notice has been erected on the main road either. The N69 road from Listowel to Tralee is part of a tourist route from North Kerry to South Kerry. There are approximately 30 houses very close to this industrial estate and we also object for health and safety reasons. We have over 70 signatures in support of our objection as well as support from our local representatives. We urge all county councillors to vote against this proposal here today as this site is not suitable for a civic amenity centre with domestic skip.

We would have known nothing about this proposal only someone anomalously dropped the plans through our doors very early one morning. We have Kerry Group, the Mart and a soccer pitch already within our community and that’s the way we want it without a civic amenity centre with domestic skip. Please support us. Vote against this proposal.”

He added that this letter was signed by Michelle Buckley on behalf of Tanavalla Residents.

Cllr. R. Beasley welcomed the residents of Tanavalla to the meeting and commended the efforts of the engineers in the Environment Department in trying to secure a site for a civic amenity facility for Listowel. He pointed out, however, that the proposed civic amenity facility for An Daingean is located three miles from the town while the proposed site at Tanavalla is just three quarters of a mile from Listowel town centre. The residents of this area have endured a lot, in particular relating to smells etc from the Kerry Group facility but these have now been resolved. They have also welcomed the Mart to their area together with a small industry. When this site was first proposed in April 2005 members were not aware that domestic waste would be accepted. He was opposed to the provision of a civic amenity facility at this location.

Cllr. M. Healy-Rae stated that he wished to lend his support to the views expressed by Cllr. O’Sullivan. It appears there has been a major breakdown in communications with local residents and but for the anonymous letter through

residents letter boxes they would be unaware of this project. He acknowledged that it is essential that civic amenity facilities are provided in all areas but said that this can only happen following extensive public consultation. While he complimented Mr. O'Sullivan and all the staff in the Environment Department on the tremendous work they have done in trying to identify a suitable site he said that the proposed site at Tanavalla is totally unacceptable and he would not support it.

Cllr. T. O'Brien supported the sentiments expressed by Cllr. O'Sullivan and expressed concern that there was inadequate consultation with local residents.

Cllr. T. Fitzgerald supported the sentiments expressed by Cllr. N. O'Sullivan and other members but stated that it was important not to overstate the case. All members agree that a civic amenity centre is required for the Listowel Area but it is important that the correct location is identified. He pointed out that if the case is overstated it could be deemed undesirable in all areas. On this occasion the local residents are opposed to the provision of this facility in their area and it is important that prior to the commencement of any such project agreement would be reached with the local community.

Cllr. M. O'Shea said that he was confused that one part of the county is willing to accept a civic amenity facility while another part of the county is opposed to it. In Milltown the civic amenity facility is of major importance to the local community. Residents living close to it have no objection to it as the site is extremely well maintained. He believed that dialogue is always the way forward and it would be a pity if this facility was lost to Listowel. He suggested that further consideration of this matter be deferred to the Environment SPC who could then meet with residents and engage in further negotiations.

Cllr. J. O'Connor informed the meeting that this matter was discussed at the Environment SPC meeting last month at which time it was felt that further discussion was required. This has the potential to be an excellent facility but unfortunately it does not have the support of the local community and cannot progress at present.

In response, Mr. P. O'Sullivan, Director of Environment, refuted the allegations that Kerry County Council was being secretive about the proposed location of a civic amenity site at this location. Members were kept informed of all developments relating to this project over the past 18 months and as part of the process a notice was erected on site. He pointed out that notices also appeared in the local newspapers. The intention of the Environment Department was to build on what has been very successful in the county and members living near existing sites are very supportive of them. These sites are very well run and supervised and there has been no difficulties encountered in any of the four sites already in operation. He would be willing to consult further with local residents, in

particular, with regard to the domestic element of the project. The matter could then be brought back to the July Council meeting for decision.

Cllr. N. O'Sullivan said that if these matters were clarified at an earlier stage there may have been a possibility that the residents could be persuaded to agree to the project. However, they are now entrenched in their opposition to it. He again pointed out that the civic amenity facility for An Daingean is located three miles from the town and he believed that efforts to locate this facility as close as possible to the urban centre is incorrect. He PROPOSED that the members of Kerry County Council would not approve the location executive to seek an alternative site within a three mile radius of Listowel Town.

Cllr. N. Foley SECONDED this proposal.

Cllr. D. Healy-Rae also supported it.

Mr. M. Riordan, County Manager, said that he understood that members feel there was insufficient consultation with local residents. The officials of Kerry County Council would be willing to enter into further discussions with the residents if that would be helpful. However, if the members decide that this site is not to proceed they must realise that a site may never be found in Listowel despite the fact that there is great demand for such a facility in North Kerry. If a civic amenity facility is not provided in Listowel it could result in illegal dumping in the vicinity of the town. He urged members to engage in further consultation rather than dismissing the project. He also pointed out that while grant aid is available at present there is no guarantee that it will be available when an alternate site is identified. He encouraged members not to make a decision at that time but to engage in further consultation and if members vote against that site he believed it would be the end of a €1m investment for Listowel.

The Mayor, Cllr. T. Ferris, informed members that they have a further six weeks within which to make a decision on this issue. This would allow plenty of time for further negotiations and it could again be considered at the July meeting.

Cllr. P. McCarthy stated that in order to allow the concerns of the local residents to be taken on board he PROPOSED that a special Listowel Electoral Area Meeting be convened in the near future and that the local residents be invited to address that meeting. This item could then be considered by the full council in July.

Cllr. N. O'Sullivan objected to the Manager stating that if members did not support this facility there may never be a civic amenity facility in Listowel. Members were very positive about a number of sites identified in the past. In particular, one in the town centre where there was no local objections yet it was objected to by another state agency. He believed that there must be a suitable site

within a three mile radius of Listowel town and there is a responsibility on the executive to identify such a site.

Cllr. R. Beasley stated that the residents of this area are totally opposed to the facility and the onus is on Kerry County Council to identify an alternative site.

Cllr. J. Brassil asked what was the outcome of the meeting with the members of Listowel Town Council on this issue and did they support this facility at this location?

In response Mr. J. Breen, Manager for the Listowel Area, said that this matter was discussed and members reiterated their support for the provision of a civic amenity facility for Listowel. It was also contained as an Objective in the Listowel Development Plan. Some issues were also raised at that time, in particular, the fact that domestic refuse would be accepted.

Mr. M. Riordan, County Manager, said that he would advise members not to make a decision on at that meeting. He believed that the officials of the Council had consulted widely with the local community and there is a difference between consultation and agreement. If the main issue of concern to the local community is that of consultation and the Council proposes to make a decision based on this one objection he suggested that they would wait for one month to allow further negotiations to take place. He understood that the Council were asking him to seek an alternative site within a three mile radius of Listowel but he said that it would be virtually impossible to get complete agreement on any such site. Even if an alternative site is located some time in the future there is no guarantee that funding will be available for it. He urged Members to agree to further consultation over the next four weeks and to make their decision at the July meeting.

The Mayor, Cllr T Ferris, said that while she shared the concerns of the local residents relating to the domestic element of this project she felt that it would be irresponsible not to allow four weeks before making a decision.

Cllr. M. O'Shea suggested that Members take the Manager's advice and defer a decision on this matter for four weeks during which time they would have an opportunity to visit other sites.

Cllr. P. McCarthy asked the County Manager if his proposal to defer the decision for four weeks would include officials reconsidering a site in Listowel town.

Mr. P. O'Sullivan, Director of Environment, said that it had taken five years to reach this point. However, he would be willing to consider any site that he was made aware of.

Cllr N. O'Sullivan said that he believed funding would be available if a suitable site was identified in the future. He did not believe that deferring a decision for four weeks would change the mood of the residents and he again PROPOSED that the members of Kerry County Council would not approve the location of the Civic Amenity Facility in Tanavalla and that the executive be requested to seek an alternative site within a three mile radius of Listowel town.

Cllr M O'Shea PROPOSED that a decision be deferred until the July Meeting and that further negotiations would be undertaken with the residents in an effort to reach agreement.

Cllr M Cahill SECONDED this proposal.

A vote was then taken on Cllr. O'Shea's proposal which resulted as follows;

For: Cllrs. Brassil, Cahill, Cronin, S. Fitzgerald, Miller, O'Connor, O'Shea, Ferris (8)

Against: Cllrs. Beasley, Buckley, T Fitzgerald, Foley, D Healy-Rae, M Healy-Rae, Leahy, McEllistrim, O'Brien, O'Sullivan, Purtill, Sheahan (12)

Not Voting: Cllr. McCarthy (1)

The Mayor declared the proposal defeated.

A vote was then taken on Cllr. O'Sullivan's proposal that this development would not proceed. The vote resulted as follows:

For: Cllrs. Beasley, Brassil, Buckley, Cahill, Cronin, S Fitzgerald, T Fitzgerald, Foley, D Healy-Rae, M Healy-Rae, Leahy, McCarthy, McEllistrim, Miller, O'Brien, O'Connor, O'Shea, O'Sullivan, Purtill, Sheahan, Ferris (21)

Against: None (0)

Not Voting: None (0)

The Mayor declared the proposal carried.

06.06.19.05 Draft Regional Waste Management Plan

Mr. P. O'Sullivan referred members to his report dated the 12th June 2006 on this item together with the Consultation Report which were circulated and he briefed them in detail on the report. He stated that the review of the Regional Waste Management Plan commenced with a public consultation phase in June 2004 and RPS MCOS Consultants were appointed to assist with the preparation of the draft replacement plan. The draft replacement Regional Waste Management Plan was published on the 3rd October 2005 and was put on public display. A total of 242 submissions were received from the public

and organisations. All the submissions have now been considered by the Regional Steering Task Group and a series of revisions, amendments, additional text and corrections have been made in response to the submissions. It is hoped that the Plan will be in place before the end of June. In conclusion he introduced Ms Phillipa King from the Regional Waste Management Office in Limerick who has been very involved in the preparation of this Plan.

All Members present welcomed the replacement Regional Waste Management Plan.

Cllr. T. Fitzgerald said that it was an objective of the government to reduce the amount of waste going to landfill. He asked if that would be economic for Kerry County Council to achieve this when we have been trying to encourage private operators to use the landfill facility at Muingnaminnane rather than transporting waste outside of the county.

Cllr. J. Brassil said that he understood that the making of the Regional Waste Management Plan was an executive function as this power was removed from councillors a number of years ago. He requested clarification on this matter.

In response Mr P O'Sullivan said that the making of the Regional Waste Management Plan is in fact an executive function. The purpose of the report is to keep members informed of progress in the preparation of the Plan. He then referred to Cllr Fitzgerald's query relating to the quantities of refuse being accepted at landfill and said that on the one hand the landfill site at Muingnaminnane is a business and certain quantities are required to make it viable. But the overall policy must be to reduce the amount of waste going to landfill. He added that a landfill site will always be needed.

Cllr. J. O'Connor asked if there has been an increase in the volume of refuse being deposited at Muingaminnane in 2006.

Mr. P. O'Sullivan confirmed that the level of activity has increased to about 60,000 tonnes at Muingaminnane.

Cllr. T. Sheahan asked if the reduction in the volume of waste accepted at landfill would have an effect on the staffing levels there. He understood that the Council aims to have one man at the back of the refuse truck and he was concerned that all this would result in a reduction in the number of jobs.

Mr. P. O'Sullivan said that the level of staffing at the landfill site would not be affected as a core staff will still be required. Efforts are being made to streamline the refuse collection service at present in order to safe guard this service. Kerry is now the only local authority in the region operating a refuse collection service and every effort must be made to reduce costs.

06.06.19.06 Report of the Local Government Auditor on the Accounts of Kerry County Council for the year ended 31st December 2004

Mr. J. O'Connor, Head of Finance, informed the meeting that three documents were circulated to Members.

1. A copy of the Report of the Local Government Auditor on the Accounts of the Council for the year ended 31st December 2004.
2. A copy of the Audit Opinion from the Annual Financial Statement.
3. His own Report.

He informed the meeting that the Local Government Audit Service provides an external and independent appraisal of the financial and regulatory stewardship of the local authority by its management. In the course of its work the Audit Service reviews the financial position, accounting probity, governance arrangements and value considerations of the local authority being audited. The Council's total financial activity amounted to approximately €353 million in 2004. In addition the Council managed an asset portfolio of €3.147m. No invalid or unfounded payments or unaccounted for receipts or any other significant financial issue of major impact were found during the audit and the Principle Auditor was satisfied with the Council's compliance with the required accounting regulations as per his Audit Opinion.

He stated that the Auditor has mentioned a few specific areas of activity in paragraphs 2 and 3 of his Report. Management's response to his comments has been included in the Report as well. The areas mentioned continue to receive Senior Management attention, so as to achieve satisfactory operational and financial outcomes. In particular he advised Councillors of the following updates:

1. The collection performance of water charges (including sewerage charges) improved by 2.6% to 75.5% for the year ended 31st December 2005 and efforts are continuing to improve that collection level further. Unfortunately the Council is forced to take rigorous collection enforcement measures in many cases where defaulters refuse to pay without good cause. Nonetheless, however, our collection performance placed us in the top quarter of water collection levels by local authorities for 2004 according to the published data.
2. As reported to the Elected Council in May 200, it was intended that an amount of the proceeds from the sale of the Jeanie Johnston Ship, equivalent to the value of grant-aid from Shannon Development/Department of Tourism would be placed in an ESCROW account (i.e. in trust) for the remainder of the lifetime of the grant-aid conditions (approximately four years). After that period, the amount would be distributed between Kerry County Council and Tralee Town Council according to the Share Subscription and Shareholders Agreement, subject to compliance with the grant terms in the meanwhile. Discussions have commenced on an arrangement whereby the proceeds of the ship could be distributed now subject to legal agreement/covenant between the County Council

and the grant aiding bodies affirming the repayment of the grants, if the grant terms were not fulfilled over the remaining term. This would enable paying off the loan raised by the council some years ago and help in streamlining the orderly winding up of the former Jeanie Johnston (Ireland) Company Limited.

In conclusion he said that given the scale and complexity of the councils work programmes and the level of change undergone in recent years the Audit Report must be considered quite satisfactory. Efforts continue at improving our processes, procedures and effectiveness across the organisation.

All Members congratulated Mr. O'Connor on his prudent management of the Councils finances and on the Auditor's Report.

Cllr. T. Fitzgerald expressed concern that 25% of customers are not paying their sewerage and water charges. He asked if they were in a position to pay and if so were Kerry County Council pursuing them with a view to recovering these amounts. He welcomed proposals to distribute the proceeds from the sale of the Jeanie Johnston and asked that this proceed as soon as possible.

Cllr. P. McCarthy referred to the 25% of customers who do not pay their sewerage and water charges and stated that they should be forced to sign up for direct debits.

Cllr. S. Fitzgerald asked how much does Kerry County Council owe on the loan taken out for the Jeanie Johnston following the distribution of the proceeds from the sale of the ship.

In response Mr. J. O'Connor, Head of Finance, said that the collection of monies is more difficult now despite the buoyant economy and the recently published Money Advice and Budgeting Service Annual Report has confirmed this. Every avenue is explored in efforts to collect all outstanding monies. The council welcomes customers who would like to sign up for direct debit but added that this is not a solution as there are always people who default on direct debits. A member of staff in the Revenue Department has been assigned to pursue the collection of arrears. He pointed out that our collection levels for all other charges are in the region of 90% and it is important to note that a substantial number of customers pay their water charges when they are due. The 25% outstanding for water charges amounted to approximately €2m at the end of 2004 but some of this was subsequently written off.

Cllr. P. McCarthy asked if it would be possible to make it a condition of providing a water supply that a customer would have to sign up for direct debit.

In response, Mr. J. O'Connor, Head of Finance, said that this would not be possible. In relation to the proceeds from the sale of the Jeanie Johnston, he said that it is anticipated that Kerry County Council would receive its share of the funds in the next few months and taking into account what has already been paid back on the loan, this should clear the loan.

06.06.19.07 Nominee to the Kerry Education Service

The Mayor informed the meeting that a procedural issue had arisen with regard to this item and it would be deferred to a later date.

06.06.19.08 Draft Water Services Assessment of Needs 2006

Mr. O. Ring, Director of Water Services, referred members to his report dated 13th June, 2006 on this item which was circulated. He briefed them in detail on the report which sets out the progress made on capital schemes over the past few years. In 2003 the Department of Environment, Heritage and Local Government requested Kerry County Council to prepare an Assessment of Needs for Water Services Investment which would identify the medium term requirement of all the local authorities in one consolidated list. The Draft Assessment of Needs contains 19 projects, some phased, with a total estimated cost of €160.6m. The Draft Assessment of Needs 2006 has already been considered by the Environment SPC and the council is now requested to allow the Draft to be published for public consultation for a minimum of one month. A report will then be presented to the September meeting of the council on any observations received and to seek the council's approval to an agreed assessment which will then be submitted to the Department of Environment, Heritage and Local Government.

On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. N. Foley, it was resolved to approve the publishing of the Draft Water Services Assessment of Needs 2006 for public consultation.

06.06.19.09 Report on the Establishment of Garda Community Policing Boards

Mr. J. Breen, Director of Housing, Community & Enterprise, referred members to his report dated 14th June, 2006 on this item which was circulated. He informed the meeting that details received with regard to establishing Joint Policing Committees was circulated. Initially, it is intended that a Joint Policing Committee will be established in Tralee with a immediate task of overseeing the implementation of the CCTV Scheme for the town. Details of the composition of the committees are set out in the circular attached to his report. It is intended that the structures will be established under the direction of the County Development Board and that these committees will be rolled out during the second half of 2007.

All members welcomed the report and agreed to note it.

06.06.19.10 Report on Discharge Licensing

Mr. B. Sweeney, SE Environment, referred members to report dated 12th June, 2006 on this item which was circulated. He informed the meeting that traditionally developers and private households have disposed of effluent by means of a septic tank/treatment system and percolation area on site or by discharge to public sewers. However, in recent

times we have seen a new trend whereby applications for licences to discharge treated effluent to streams and rivers are being received. These applications relate to sites which because of their high water table are unsuitable for an on-site percolation having failed a T-test and P-test. In effect such sites are located in extremely wet and marshy grounds. The applications involve the provision by the applicant of on-site treatment unit with the treated effluent being discharged to a nearby stream or river. He stated that there are concerns over this new trend because the EU Water Framework Directive contains a legal requirement that all waters obtain good status by 2015. Recent monitoring work carried out by UCC has indicated that the majority of small streams and rivers assessed to-date would be considered at risk from water pollution. In particular of 19 sites monitored in the North Kerry area ten were classified as being at risk from water pollution, while a further five were considered to be probably at risk. Kerry County Council is obliged to meet the terms and requirements of the national Phosphorus Regulations which specified detailed water quality objectives in relation to phosphorus.

Kerry County Council is obliged to bring about improvements in water quality where problems exist and furthermore to maintain good water quality where this is already the case. The widespread granting of licences would run contrary to these objectives. Based on the concerns outlined in the report and the lack of specific current information and the quality of the water in our streams, rivers and lakes it is proposed that applications for licences to discharge domestic effluent to waters will be refused in the short-term. This policy will be revised and reviewed when the detailed information on the quality of the waters in the county is available as a result of the monitoring programme. It should be noted that there is an appeal process to An Bord Pleanála for applicants who are refused a licence.

Cllr. A. McEllistrim said that the issue of percolation tests is becoming very contentious with planning applications being refused due to unsatisfactory results. In many instances where permission had lapsed and the applicants reapplied they were refused. She pointed out that very few people actually apply for discharge licences because they are very expensive. However, this option should be open to them and it should be a condition of the grant of the licence that the treatment unit would be properly maintained.

Cllr. J. Brassil said in relation to the T-test and P-test that the failure value set by Kerry County Council is 50 and he asked what guidelines govern this failure rate as he understood Cork County Council do not have a fail value. He expressed concern at the high fail value and said that he believed that an engineering solution is always possible. However, in Kerry the value is set and if the result is above this, the application is refused regardless of whether engineering solutions are possible or not.

Cllr. T. Sheehan said that applications for licences to discharge to waters are being refused for months and the option open to the public is to appeal the decision to An Bord Pleanála. Most of the applications are refused on the grounds of phosphorus pollution in receiving waters. The majority of planning applicants choose to use bio-cycle wastewater treatment systems but the report states that these are not being maintained. In his own area he was aware that survival of many schools is dependent on planning permission

being granted otherwise they could close down due to lack of numbers. In the past farmers have been blamed for the high levels of phosphorus in Lough Leane, yet raw sewerage from Barraduff, Kilcummin and Kilgarvan is flowing straight into the rivers which feed into Lough Leane. It is possible to discharge treated effluent to aquifers with a limit of 4 cubic metres per 24 hours without causing damage to the receiving waters and he stated that no domestic household would discharge this volume. He stated that he disagreed with the report and said that he felt areas could be catered for provided the development was not large scale.

Cllr. D. Healy-Rae said that this was a matter of great concern to him as a number of people he represents applied for discharge licences. They engaged the appropriate professional people to apply for the licence and believed that they had satisfied all the criteria yet they were refused. He called on the County Manager to make a public announcement to the people in these areas that for historic reasons discharge licences will not be granted and to list the areas where discharge licences will not be granted and to advise people from these areas not to apply for licences. He believed there were many causes of pollution and many of them are not being addressed.

Cllr. M. O'Shea said that this is a very serious issue for many parts of the county. He believed that other local authorities are not as stringent as Kerry County Council and Kerry County Council should give favourable consideration to applications for discharge licences for family members. There are a number of reputable companies that supply treatment units which are approved by the Department of Environment, Heritage and Local Government. A forest farm of 60 or 70 acres by a stream will result in greater levels of phosphorous pollution than two houses.

Cllr. T. Fitzgerald said that this is a major issue for Kerry County Council. However, the onus is on the council to strike a balance whereby the waters of the county are protected and where possible people can be granted discharge licences.

Cllr. M. Cahill said that sewerage treatment plants and bio-cycle units are constructed to the highest standards. The cost of applying for a discharge licence is very expensive and he called for the appointment of an independent expert to advise the council on this matter. He acknowledged that care must be taken to ensure that rivers and streams are not put at risk from pollution.

Cllr. T. Fleming said that at present there is a complete ban on the issuing of discharge licences in East Kerry. This is not the Golden Vale and Sliabh Luachra means the rushy mountain. If rushes are observed growing on a site it is automatically rejected and there is no justification for this. Kerry County Council is implementing the EPA Guidelines too stringently and this is a form of discrimination. He called for a review of how these assessments are carried out. Two new treatment plants will be provided in the near future in the Lough Leane catchment area and this would allow discharge licences be granted for a number of individual residences which will result in the minimal amount of effluent being discharged.

Cllr. J. O'Connor said that the stringent control in the issuing of discharge licences by Kerry County Council is largely due to the problems experienced with the Lakes of Killarney and the possibility of algae bloom there. Killarney is a national treasure and it is important that the decision not to issue discharge licences is based on science. 2006 has been a very warm year and the top of the water on the lakes heats and this is a natural occurrence. Monitoring is being carried out in a number of locations in the county at present and when all the data is available from this monitoring an informed decision should be taken. He agreed that independent expert advice is also required and he PROPOSED that an independent expert be employed by Kerry County Council to advise the Council on this matter. He stated that a large number of detergents contain phosphate and this ends up in rivers and streams and results in pollution. He PROPOSED that Kerry County Council commence an advertising campaign to inform the public that certain washing powders contain phosphates and advising the public of the effect this has on streams, rivers and lakes. If discharge licences are issued there should be an on-going monitoring programme to ensure that the terms and conditions of the licence are adhered to.

Cllr. B. O'Connell said that he understood that treatment units require regular maintenance. He asked if there was an onus on the person to maintain this unit and are they monitored regularly as it is a very serious issue for the environment if they are not properly maintained.

Cllr. B. Cronin said that this is a very serious issue in particular for East Kerry. He acknowledged that it is important to be conscious of the protection of waters and water sources. At present Kerry County Council is proposing to refuse all applications for discharge licences for a period of two years and he was not advocating the widespread granting of licences. However, there are instances where family members have no other alternative and he requested that consideration be given to the granting of discharge licences in these instances.

Cllr. N. Foley said that it is an aspiration for everyone to own a little house. Kerry County Council has an obligation to protect our rivers and it should be a last option to apply for a discharge licence. There is not a widespread granting of discharge licences but she agreed that there must be an opportunity to consider individual cases.

Cllr. P. McCarthy referred to the last sentence in the second last paragraph of the report which reads "*this policy will be revised and reviewed when the detailed information and the quality of the waters in the county is available as a result of the monitoring programme*". He asked when would the monitoring programme be completed? He asked if Kerry County Council take into consideration the five cubic metres per day guideline in accordance with the EPA Guidelines. Do we use a dilution rate of eight times the daily discharge per house. Reference was made to the fact that Kerry County Council does not have adequate staffing to carry out a proper monitoring programme when discharge licences are issued and he asked if the Council was aware that there is a monitoring system that is linked to the GPS that would then alert Kerry County Council of any breach of dilution levels.

Mr. B. Sweeney, S.E. Environment, said that people generally tend to sell their wettest sites which can result in it being necessary to apply for a licence to discharge to waters. The EPA has set out clear stringent guidelines for percolation tests and if a site fails a P-test then a T-test is carried out. If a site fails a P-test it must be extremely wet and it must not exceed 50. He then referred to the discharge parameters and said that it is important to consider the discharge of the outlet not particularly the inside of the treatment works. If a treatment system is not working, untreated effluent is discharged to waters. In relation to the monitoring programme it is anticipated that the results will be made known in approximately two years. In considering whether a discharge licence should be issued it is important to look at the absorptive capacity of a river together with the flow and uphill capacity. He added that he was not aware of any sophisticated monitoring equipment as referred to by Cllr McCarthy. He acknowledged that it can be expensive to apply for a discharge licence and that it is why it is only fair to applicants that this policy is made public.

Cllr. J. Brassil said that he believed there are engineering solutions where a site fails a P-test. A raised percolation area can be installed and by the time the effluent is discharged into the ground it will have been through adequate percolation.

Mr. B. Sweeney, S.E. Environment, stated that with the P-test it is necessary to have a raised percolation area. He added that the Council favours the use of a drier site.

Cllr. J. Brassil pointed out that this is not always possible.

Cllr. T. Sheehan said that he was aware of two applicants who had applied for planning and discharge licences. One was granted a discharge licence but was refused planning, while the second was granted planning permission but was refused a discharge licence. He believed that Planning and Environment should be segregated in these roles as they are two separate issues.

Cllr. D. Healy-Rae again expressed his disappointment that no discharge licences would be issued for the next two years as it would result in depriving people of a home. He again asked that this policy would be published and advertised to ensure that agents and applicants are made aware of it.

Mr. M. Riordan, County Manager, said that landowners family members would be viewed as an exception and analysis can be obtained of receiving waters and the application can then be dealt with. It is intended that the policy now being applied may have regard to exceptional cases. He pointed out that Kerry County Council is very restricted until the quality of receiving waters has been established. He requested members to note the general policy while he noted members views that exceptional cases should be taken into consideration.

Cllr. T. Sheehan opposed the generalisation of this policy.

Cllr. M. Cahill agreed with this.

Cllr. P. McCarthy asked, if there was a problem with the upper layer and percolation could be got a 2metres, would the application still be refused.

Mr. B. Sweeney, S.E. Environment, said that if the site is dry at 2metres it would pass the T-test and would be acceptable.

06.06.19.11 Update on the holding of a Plebiscite on An Daingean

Mr. J. Flynn, Director of Corporate Services, referred members to his report dated the 15th June 2006 on this item which was circulated and he briefed them in detail on the report. He stated that the report sets out the procedures which will now be undertaken and also the timescale during which this will be rolled out.

All members present welcomed the report.

06.06.19.12 Draft Kerry Local Authorities Annual Report

On the PROPOSAL of Cllr. A. McEllistrim, SECONDED by Cllr. P. McCarthy, it was resolved that the final Draft Kerry Local Authorities Annual Report 2005 be adopted.

The Mayor informed the meeting that Mary Hand was unwell and would not be able to make her presentation on the Organ Donation Awareness Campaign.

06.06.19.15 Opening of Tenders

On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. C. Miller, it was resolved to approve the opening of the following tenders:

- a) Tralee Western Ring Road Phase II – Provision of Environmental Consultancy Services
- b) N22 Farranfore to Killarney Road Topographical Survey – Farranfore to Lawlor's Cross
- c) Low-level Vertical Aerial Photographic Surveys – Kerry Road Improvement Schemes
- d) Kerry Regional Broadband Works
- e) Delivery of Bitumen Products July – December 2006
- f) Panel Van for Housing Maintenance

06.06.16.16 Summary of Proceedings at Conferences

(d) Listowel Cultural Heritage Centre Conference

Cllr L Purtill stated that he had attended this conference on the 11th and 12th of May 2006 in Listowel. The theme of the conference was “The Importance of the Arts in Urban Regeneration”. The guest speaker was Mr John O'Donoghue, TD, Minister for Arts,

Sport and Tourism. The first session was on the theme “The role of the Arts Council” and this session was chaired by Mr Jimmy Deenihan, T.D. and the speaker was Ms Mary Cloake, Director of the Arts Council. The next session was on “The role of Local Authorities in the Development of Traditional Arts” and this session was chaired by Billy Keane of the Seanchaí Centre and the speaker was Úna O’Murchú, D director of Brú Boru Cultural Centre. The final session was on “The role of the County Arts Officer” and this session was chaired by Cllr Tom Walsh, Mayor of Listowel and the speaker was Ms Kate Kennelly, Arts Officer with Kerry County Council.

06.06.19.17 Notices of Motion

1. Provision of small sewerage schemes for villages

Pursuant to notice duly given Cllr. T. Fleming PROPOSED:

"That Kerry County Council seek permission from the Department of the Environment, Heritage and Local Government to proceed with the administration and preparation of small sewerage schemes (new and upgrading) for villages in the county. The current Department of the Environment procedures are stifling advancement of these schemes with undue delay up to preliminary sanction"

Mr. C. O’Sullivan, S.E.O. read the following report:

Kerry County Council have completed Preliminary Reports for 5 Villages as follows

<i>Beaufort SS</i>	<i>Preliminary Report submitted to DEHLG July 2005 seeking approval to proceed to Contract Documents Stage. DEHLG approval awaited.</i>
<i>Barraduff SS</i>	<i>Preliminary Report submitted to DEHLG Jan. 2005 seeking approval to proceed to Contract Documents Stage. DEHLG approval awaited.</i>
<i>Kilcummin SS</i>	<i>Preliminary Report submitted to DEHLG May 2005 seeking approval to proceed to Contract Documents Stage. DEHLG approval awaited.</i>
<i>Milltown SS</i>	<i>Preliminary Report submitted to DEHLG July 2004 seeking approval to proceed to Contract Documents Stage. DEHLG approval awaited.</i>
<i>Firies SS</i>	<i>Preliminary Report submitted to DEHLG Dec 2004 seeking approval to proceed to Contract Documents Stage. DEHLG approval awaited.</i>

Kerry County Council have progressed the preparation of Contract Documents for the above 5 Village Schemes in advance of Department Approval and have advertised for Tenders as follows:

- *Barraduff SS April 2006*
- *Kilcummin SS April 2006*
- *Milltown SS April 2006*
- *Firies SS May 2006*
- *(Beaufort SS Oct 2006)*

Kerry County Council have submitted a proposal to the Department to advance the following 28 Village Sewerage Schemes:

<i>Tarbert</i>	<i>Abbeydorney</i>	<i>Brandon</i>	<i>Glenbeigh</i>
<i>Ballylongford</i>	<i>Kilflynn</i>	<i>Castlegregory</i>	<i>Chapelstown</i>
<i>Asdee</i>	<i>Ardfert</i>	<i>Aughacasla</i>	<i>The Glen</i>
<i>Cashen</i>	<i>Fenit</i>	<i>Anascaul</i>	<i>Caherdaniel</i>
<i>Ballyduff</i>	<i>Spa</i>	<i>Boolteens</i>	<i>Sneem</i>
<i>Finuge</i>	<i>Currow</i>	<i>Castlemaine</i>	<i>Kilgarvan</i>
<i>Lixnaw</i>	<i>Scartaglen</i>	<i>Cromane</i>	<i>Glenflesk</i>

Department approval was received

in Jan 2006 to proceed to prepare Preliminary Reports for the 28 Villages.

Four teams of Consulting Engineers were appointed, in advance of Department approval, in Nov. 2005 to prepare the 28 Preliminary Reports.

The 28 Preliminary Reports, due for Draft completion in July 2006, will identify the layout and costs of the proposed schemes. It is intended that, following prioritisation of the 28 schemes, KCC will progress the prioritised schemes to Tender Stage without delay.

Cllr T Fleming expressed concern that progress on the planning for sewerage schemes for small villages has been very slow especially in the East Kerry area where pollution of rivers and streams is of concern. If these villages are to be allowed to develop it is important that this infrastructure is provided. He called on management to make a case to the Department to be allowed to proceed with these schemes and if approval is not forthcoming to proceed anyway.

Mr. O. Ring, Director of Water Services informed the meeting that some of these schemes will commence in the current year and in the autumn a priority list will be presented to the members for consideration.

4 Expenditure on the Ring of Kerry Road.

Pursuant to notice duly given Cllr. M. Cahill PROPOSED:

That Kerry County Council and the NRA give a detailed account of how much money to date has been spent on the most dangerous section of the Ring of Kerry road from the "S" shaped bridge at Glenbeigh National School to Mountain Stage. How much has been spent on road design, land acquisition and on actual work? How much is in this year's Roads Programme for this section of road and when will this road be made safe i.e. dangerous bends taken out, etc? Have we got value for money in this case?

Mr. C. O'Sullivan, S.E.O. read the following report.

Works commenced on the realignment of this section of road in 2000/2001. However it was not possible to continue the realignment works at that time as lands required for the works could not be acquired by agreement. €1.3m was spent at that time.

In 2006, a sum of €70,000 has been provided to complete the design of a realignment of the road from Mountainstage to the school by Glenbeigh Bridge. Lands required for

realignment will be identified. However, based on experience to date, it is unlikely that the lands can be acquired by agreement and therefore a CPO will have to be initiated. This would mean that the realignment works could not happen for a number of years, even if monies are made available now.

In the meantime, as the surface on this section of road is in a very poor condition a sum of €300,000 has been provided to improve 2.5 km of road between Mountainstage and Glenbeigh Bridge.

Cllr. M. Cahill said that this is the most dangerous stretch of the Ring of Kerry road and he asked when would the two most dangerous bends be removed and was value for money got in improvement works carried out at a cost of €1.3m.

In response Mr. T. Curran, County Engineer, said that the two bends in question will be removed when the final design has been received and the CPO completed. With regard to value for money for works carried out in this route he said that he did not feel that this had been achieved as works were carried out on a piece meal basis. There were a lot of delays and difficulties with landowners in carrying out these works and a lot has been learned from this project.

Cllr. M. Cahill said that a number of landowners would be willing to give the land free of charge to facilitate the removal of these two bad bends. He asked if the allocation of €300,000 would be sufficient to surface dress the entire 2.5km between Mountain Stage and Glenbeigh Bridge. While he welcomed this allocation he hoped that it would not delay the major works to be carried out on this road.

In response Mr. T. Curran confirmed that the allocation of €300,000 would be sufficient to surface dress the 2.5km of road and the carrying out of these works would not delay major improvements to this road.

Cllr. M. Healy-Rae SECONDED the motion.

5 Promotion of Health Checks

Pursuant to notice duly given Cllr. M. Healy-Rae PROPOSED:

As everyone knows your health is your wealth, and it is not time in relation to the early detection of different diseases and cancers, that this government should be promoting a 'health check', ie a 'health MOT' at twenty-five (25), forty-five (45) and sixty (60). These checks would obviously help to detect and catch a lot of developing health problems and more than likely save thousands of lives in our country. I believe that we should write to the new Health Service Executive and ask our Members on this Executive to support this call as it would be of help to our present and future generations.

Mr C O'Sullivan S.E.O. informed the meeting that this is a matter for resolution by the Members.

Cllr. M. Healy-Rae PROPOSED that Kerry County Council resolve that the Government promote a health check,i.e. a health MOT at 25, 45 and 60 years of age and that a letter be forwarded to the new Health Service Executive calling on them to support this proposal. He stated that he felt that this is the prudent way to move forward as prevention is better than cure.

Cllr. T. Ferris SECONDED the motion and called for a vote to be taken on it.

The vote resulted as follows:

For: Cllrs. Beasley, Buckley, Cahill, Fleming, D Healy-Rae, M Healy-Rae, Leahy, McEllistrim, Miller, O'Connor, O'Sullivan, Purtill, Ferris (13)

Against: None (0)

Not Voting: None (0)

The Mayor declared the proposal carried.

Suspension of Standing Orders

The Mayor informed the meeting that it was 1.30pm and it would be necessary to suspend Standing Orders.

On the PROPOSAL of M Healy-Rea SECONDED by Cllr N O'Sullivan it was resolved to suspend Standing Orders to allow the meeting to continue.

6 Legal distinction between domestic household waste and countryside/garden waste

Pursuant to notice duly given Cllr. M. Gleeson PROPOSED:

That this Council calls on Rialtas na h-Éireann to appropriately amend the relevant Legislation in order to make a clear legal distinction between Domestic (Household) waste and Countryside/Garden-waste i.e. that which results from good land husbandry, such as briars, branches, potato stalks and other non-recyclable garden material.

Mr. C. O'Sullivan, S.E.O. read the following report:

We are aware that the Department of Environment, Heritage and Local Government is currently drafting legislation in relation to the issue of backyard burning of waste. It is our understanding that this legislation will make a distinction between green waste generated by the agricultural sector and other wastes.

Cllr M Gleeson said that at the outset he wanted to make it clear that he was totally opposed to the back yard burning of household or domestic rubbish. He believed that such activity is totally wrong and he called on any household that perform such burning

to change their ways at once. He fully supported the prosecuting of any person who consistently offends in this way. In the past he had spoken about an excessively urban perspective on matters such as National Clean-Up Day. In his youth his father busied himself in the winter trimming hedges and cutting back briars and other superfluous growth as did all other landowners. The end result was headlands that were neat and tidy and fences that were safe and secure. The other inevitable end result was a neatly stacked heap of prickly briars and sharply thorned twigs and branches of white and black thorn. They were totally unsuited for animal bedding or for cutting up for burning in the kitchen range. Instead they were left to wither and dry and then they were set on fire, they quickly burned and no harm was done. Certainly no more than would result than if they could have been brought in and burned in the kitchen fire. Grisilinia or pyracantha hedging can occasionally fall victim to a highly contagious infection 'fire blight'. The only sensible answer where such occurs is to extricate the plant and burn them, thus eliminating the localized disease. The Waste Management Act is urban in its focus and does not take due cognizance of the reality of rural living where land husbandry and care for the environment usually go hand in hand. The present restriction is too absolute and account needs to be taken of the practical reality of rural life.

Cllr J O'Connor SECONDED the motion and it was unanimously agreed to refer it to the Department of Environment, Heritage and Local Government for consideration.

7 Civic Reception for the Munster Rugby Team

Pursuant to notice duly given Cllr. J Brassil PROPOSED:

In light of the significant contribution of Kerry players both in the past and at present that Kerry County Council offer a civic reception to the Munster Rugby Team to recognise their Heineken Cup victory.

Mr. C. O'Sullivan, SEO said that this is a matter for resolution by the members.

Cllr. J. Brassil PROPOSED that a Civic Reception would be held to honour the Munster Rugby Team to recognize their Heineken Cup victory.

Cllr M Gleeson SECONDED this proposal and it was unanimously agreed.

8 Provision of an Arts Centre for Killorglin

Pursuant to notice duly given Cllr. J O'Connor PROPOSED

When the courthouse in Killorglin is relocated to Killorglin Town Centre later this year, that Kerry County Council would ensure that the building would be made available as an Arts Centre for Killorglin as this facility is badly needed in Killorglin.

Mr. C. O'Sullivan, S.E.O. read the following report

A number of sites and buildings are being examined with a view to sourcing funds for an art centre in Killorglin.

The Courthouse is currently being used by the Court Service.

The initial plans for the Town Centre Project included provision for a Garda Station and Courthouse Facility. However, the relevant authorities were not, at the time of contract signing, in a position to make final commitment to the initiative.

Cllr. J. O'Connor said that he understood that the new Town Centre project could facilitate a new courthouse. He called on the Council to again approach the Department of Justice with a view to getting them to move from the old courthouse to this new building as there are very poor facilities in the old courthouse. If the old courthouse became available it would be an ideal building for a new Arts Centre.

In response Mr. J. Flynn, Director of Corporate Services, said that the option of moving the Court Service into the new development is no longer there. The Department of Justice was originally given the option of moving but they did not take this up.

Cllr M Healy-Rae SECONDED the motion.

9 Rezoning of lands at Dromin, Listowel

Pursuant to notice duly given Cllr. N O'Sullivan PROPOSED

That we re-zone lands at Dromin, Listowel, property of Mr Denis Enright, for residential use.

Mr. C. O'Sullivan, S.E.O. read the following report

The Forward Planning Unit has recently presented Local Area Plans for 20 settlements in the Tralee/Killarney area.

Rezoning of land should be undertaken following a thorough assessment of need and identification of appropriate land.

Rezoning of individual portions of land to facilitate individual landowners development proposals constitutes an uncoordinated approach to overall planning of an area. The town of Listowel has very substantial areas of zoned land and it is the view of the Planning Section that no further need exists for zoned land at this location.

In addition, in accordance with the provision of the Planning and Development act, 2000, a Planning Authority, when proposing a variation of the County Development Plan must clearly state the reason for such a variation. It is the view of the Planning Section that no such reason exists or can be clearly justified.

Cllr. N. O'Sullivan said that Mr Enright's lands are virtually located in the town and all the neighbouring lands are zoned residential. It is inevitable that Mr Enright's land will be rezoned. He is a farmer and he needs every assistance to allow him to remain in farming. He PROPOSED that Kerry County Council resolve to rezone lands at Dromin, Listowel, which is the property of Mr Denis Enright for residential use.

Cllr. P. Leahy **SECONDED** this proposal.

Cllr. L. Purtill also supported the motion.

Mr. M. Riordan, County Manager, said that the rezoning of lands should be based on a series of decisions and his advice was that it was not appropriate to rezone these lands at this time as the lands zoned in the Town Plan are far in excess of what will be required. He advised Members against approving this rezoning.

Cllr. T. Ferris **PROPOSED** that this land would not be rezoned.

There was no seconder for this proposal.

A vote was taken on Cllr. O'Sullivan's proposal and it resulted as follows:

For: Cllrs. Buckley, Cahill, Fleming, D Healy-Rae, M Healy-Rae, Leahy, McEllistrim, O'Sullivan, Purtill **(9)**

Against: Cllr Ferris **(1)**

Not Voting Cllr Beasley **(1)**

The Mayor declared the proposal carried.

10 Calculation of the Purchase Price for a Single Rural Cottages

Pursuant to notice duly given Cllr. T. Ferris PROPOSED

That the Council explain the calculation of the price for purchasing Single Rural Cottages

Mr. C. O'Sullivan, S.E.O. read the following report

All local authority houses including Single Rural Cottages are sold in accordance with the 1995 Tenant Purchase Scheme. Under the terms of the Scheme, on receipt of a request from a tenant to purchase their house, Kerry County Council seeks a valuation of the market value of the property from one of our designated Auctioneers throughout the county. On receipt of the Valuation the appropriate discounts are applied and the tenant is issued with a purchase price. If the tenant is unhappy with this valuation they may submit their own valuation completed by a qualified valuer. Where the valuations differ significantly the case is referred to the Valuation Office for a definitive valuation.

In the case of single rural cottages where the tenants or their relations provided original site, Kerry County Council in carrying out the valuations, require that a separate value be placed on the site. Under the terms of the scheme the market value of the house is reduced by the site value determined. In arriving at the net sale price discounts are also allowed for improvements which add to the market value of the house and a tenancy

discount (up to a maximum of 30%) plus €3,809 (equivalent to old first time buyers grant).

Cllr. T. Ferris said that this matter was discussed by the Housing SPC at which time it was agreed to write to the Department and request that they review the terms of the Tenant Purchase Scheme for the purchase of single rural cottages in the light of the terms of the Affordable Housing Scheme. She PROPOSED that Kerry County Council resolve to write to the Department calling for a review of the Tenant Purchase Scheme in this regard.

Cllr. T. Fleming SECONDED this proposal.

A vote was taken which resulted as follows:-

For: Cllrs. Beasley, Brassil, Buckley, Cahill, Cronin, Fleming, McEllistrim, Ferris (8)

Against: None (0)

Not Voting: None (0)

The Mayor declared the Motion CARRIED.

11. Closure of the Holding Centre at Guantanamo Bay.

Pursuant to notice duly given Cllr. R. Beasley proposed:-

“That we the Council call on the Irish Government to call for the immediate closure of that holding centre and torture centre at Guantanamo Bay.”

Mr. C. O’Sullivan, SEO Corporate Services said that this is a matter for resolution by the members.

Cllr. R. Beasley PROPOSED that Kerry County Council resolve to call on the Irish Government to call for the immediate closure of the holding centre and torture centre at Guantanamo Bay. He stated that since he submitted the motion it was reported in the media that three prisoners had committed suicide and this was questionable.

Cllr. T. Ferris SECONED the motion.

A vote was taken which resulted as follows:-

For: Cllrs. Beasley, Buckley, Cahill, Cronin, Fleming, D. Healy-Rae, McEllistrim, Purtill and Ferris (9)

Against: Cllr. Brassil (1)

Not Voting: None (0)

The Mayor declared the Motion CARRIED.

12. Training and equipping of local people to assist at fires until the Fire Brigade arrives at the scene.

Pursuant to notice duly given Cllr. B. Cronin proposed:-

“To ask the Fire Service, in light of the huge growth rate of Rural Villages in Kerry and the long distances from Fire Stations, to consider training and equipping local people to assist in the event of a fire, until the fire brigade arrive on the scene.”

Mr. C. O’Sullivan, SEO Corporate Services read the following report:-

Kerry County Council currently have ten Retained Fire Brigades providing fire cover for County Kerry. In addition there are presently three volunteer village squads in the county. These village squads provide a back-up service to the Retained Brigades.

Kerry County Council has provided training and equipment for the current complement of eight volunteers in each of these village squads.

The communities involved have provided the buildings for holding the fire fighting equipment. The volunteers agree to make themselves available to respond to fires in their village and to practice regularly without pay.

Following the announcement by the Minister for the Environment, Heritage & Local Government in 2005 to introduce the Programme for Change in the Fire Service it is intended to review the provision of Fire Cover throughout the country following the reassessment of the present day level of risk. A High Level Implementation Group has been appointed by the Minister to drive and oversee the Programme for Fire Change.

It is expected that new guidelines will be issued on the level of fire cover and following this Kerry County Council will be carrying out a major review of the fire risks in the county with the intention bringing the fire service cover into line with the guidelines issued.

It would be premature to consider forming additional village squads in advance of these guidelines.

Cllr. B. Cronin welcomed the move by the Minister to review the provision of fire cover throughout the country following the reassessment of the present day level of risk. He accepted that his motion was premature in light of this review but he said he wished to put his proposal on the record. Many villages are growing rapidly and the first fifteen to twenty minutes of a fire is crucial if lives are to be saved. He was proposing that a back up fire squad would be trained in each village.

13. Opposition to the cultivate of GMO seeds, crops, trees and livestock and the transportation of GMO tress, live GMO seeds and crops on County Kerry roads, waterways, harbours and airspace.

Pursuant to notice duly given Cllr. A. McEllistrim proposed:-

“In light of February 2005 decision to declare County Kerry a GM Free Zone, to add that Kerry County Council would declare that we oppose the cultivation of GMO seeds, crops, trees and livestock and furthermore the transportation of GMO trees, live GMO seeds and crops on County Kerry roads, waterways, harbours and airspace.”

Mr. C. O’Sullivan, SEO Corporate Services said that this is a matter for resolution by the members.

Cllr. A. McEllistrim PROPOSED that Kerry County Council resolve that they are opposed to the cultivation of GMO seeds, crops, trees and livestock and furthermore to the transportation of GMO trees, live GMO seeds and crops on County Kerry roads, waterways, harbours and airspace.

Cllr. T. Ferris SECONDED the motion.

A vote was taken which resulted as follows:-

For: Cllrs. Beasley, Brassil, Buckley, Cahill, Cronin, Fleming, D. Healy-Rae, M. Healy-Rae, McCarthy, McEllistrim, Purtill and Ferris (12)

Against: None (0)

Not Voting: None (0)

The Mayor declared the Motion CARRIED.

14. Concern at the escalating level of coastal erosion in the county

Pursuant to notice duly given Cllr. B. MacGearailt proposed:-

“That Kerry County Council write to the Department of the Environment/Department of the Marine expressing our concerns concerning the escalating level of costal erosion in the county and urging them to implement a practical scheme that will address this problem.”

Mr. C. O’Sullivan, SEO Corporate Services read the following report:-

The issue of Coastal Erosion in Kerry has been raised at a number of Council Meetings in the past.

County Kerry has a coastline of 684km. It is estimated that approx. 41km of this coastline is considered to be in urgent need of attention ad would cost over €30m to

protect.

Kerry County Council makes a submission each year for funding to deal with the most urgent areas of the coastline i.e. areas that are likely to affect the public roads e.g. Inch, Rossbeigh, Maharees and Ballyheigue – Kerry Head.

In recent years very limited funding has been made available for Coastal Protection works in Kerry and to date in 2006 no funding has been provided. It appears that there is a totally inadequate fund nationally for Coastal Protection works.

The highlighting of this problem is welcomed.

Cllr. B. MacGearailt said that hundreds of acres are being washed away by the sea and very little funding is provided to address coastal erosion. This is negligence on behalf of the nation that good land is not being saved. He believed that a grants scheme should be introduced to allow landowners to carry out protection works to their lands. He could not understand how good land was permitted to be washed away by the sea.

Cllr. M. Cahill SECONDED the motion and said that it is time that this issue was prioritised by the Government.

15. Opening of toilets at the entrance to Torc Waterfall

Pursuant to notice duly given Cllr. T. Fleming proposed:-

“That Kerry County Council request Dúchas and the Department of the Environment, Heritage & Local Government to urgently open the toilets at the entrance to Torc Waterfall.”

Mr. C. O’Sullivan, SEO Corporate Services read the following report:-

The toilet facility at Torc has been opened from May 20th and it is intended to keep it open until October 2nd. in cooperation with the staff on Killarney National Park.

Cllr. T. Fleming said that he was at Torc Waterfall in May this year before the toilets were opened and a number of tourists were asking why the toilets were closed. It is unacceptable that these toilets were not open at that time. He PROPOSED that Kerry County Council resolve to request Dúchas and the Department of the Environment, Heritage and Local Government to open the toilets in Torc Waterfall prior to St. Patrick’s Day and to keep them open until November.

Cllr. M. Healy-Rae SECONDED this proposal.

A vote was taken which resulted as follows:-

For: Cllrs. Beasley, Brassil, Cahill, Connor-Scarteen, Fleming, D. Healy-Rae, M. Healy-Rae, McCarthy, McEllistram and Ferris **(10)**

Against: None **(0)**

Not Voting: None **(0)**

The Mayor declared the Proposal CARRIED.

16. Use of unused farm buildings for industrial or commercial use

Pursuant to notice duly given Cllr. D. Healy-Rae proposed:-

“To encourage Industrial Estates in the oncoming Town and Village Plans to allow unused farm buildings to be converted to Industrial & Commercial use.”

Mr. C. O’Sullivan, SEO Corporate Services read the following report:-

It is the policy of Kerry County Council to look favourably on applications for industrial units in rural areas as a method of providing a local service and employment opportunity. The conversion of farm buildings for industrial and commercial use could have serious residential amenity and environmental effects depending on the use envisaged.

In certain circumstances existing farm buildings are zoned for residential development and this is considered to be the most suitable alternative use. It would not be appropriate to include policies encouraging conversion of farm buildings to industrial and commercial use while at the same time zoning these buildings for residential. Each area is zoned according to its merits and each application for development will also be considered on its merits considering the zoning use of the land.

Cllr. D. Healy-Rae said that this is a very important issue and while the council says they are encouraging this in village plans they appear to be against it when a farmer makes an application for use of farm buildings for anything other than agriculture purposes. He urged the Planning Department to reconsider this as the buildings are already in place.

Cllr. M. Healy-Rae supported the motion but suggested that it would be more appropriate to wait until after lunch to deal with this motion as there were very few members in the Chamber.

This was agreed.

The Mayor informed the meeting that it was 2.00pm and the meeting would be adjourned for lunch until 3.00pm.

The meeting resumed at 3.10pm.

Notice of Motion No. 16 (Cont'd)

Cllr. D. Healy-Rae said that he was aware of one individual who wanted to establish a business for repairing punctures in a farm building and he was refused permission. He called on the Planning Department to vary the County Development Plan to facilitate this type of development.

Mr. J. Flynn, Director of Corporate Services, said that the report outlines that in certain circumstances existing farm buildings are zoned for residential development and this is considered to be the most suitable use. He assured Cllr. Healy-Rae that each application would be dealt with on its own merits and said it would not be possible to do a general zoning.

Mr. M. Riordan, County Manager said that he was involved in KEAT and they were considering the whole area of rural enterprise. It would be appropriate to defer this motion until their deliberations were complete. He agreed to consider this motion in the wider debate on rural enterprise.

Suspension of Standing Orders

The Mayor informed the meeting that it would be necessary to suspend Standing Orders to allow Item No. 14 to be dealt with.

On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. M. Cahill it was resolved to suspend Standing Orders to allow this item to be dealt with.

06.06.19.14 Presentation by Dr. Arthur Spring on proposals for a golf course at Inch

Cllr. M. O'Shea thanked the Mayor and members for allowing Dr. Arthur Spring the opportunity to attend the meeting and to make a presentation on why a golf course should be permitted at Inch. He also welcomed the delegation from Inch to the Chamber.

Dr. Spring thanked members for the opportunity to address them on the issue of the proposed golf course at Inch. He stated that nowadays everyone plays golf and a golf course is like a factory to the economy of the area in the amount of direct and indirect employment it generates. The IDA spends millions each year trying to attract industry into the county and the country. Most visitors to the county want to play links courses only and more of these courses are needed. Inch is the best potential site in the world. When Doonbeg Golf Course was originally proposed there was great expectancy that the local economy would boom. It is presently employing 189 people directly. He stated that his committee could create a golf complex at Inch and they would not require grants. This project has been ongoing for the last twelve years. Originally, this development was exempt from planning in accordance with the 1963 Planning Act on condition that a car

park was provided for not less than 24 cars. Kerry County Council felt that the development was not exempt and they stopped it as they felt it would be a traffic hazard. The developers subsequently submitted an engineering report which confirmed that it was exempted development. However, the Habitats Directive was introduced in 1987 and this was not passed by an Act of the Oireachtas. As a result of this there was very little debate and very few politicians are familiar with it.

These lands have been designated a candidate SAC. At present Ireland enjoys virtually full employment and there is a lot of complacency about the likes of this project which has the potential to create a lot of employment locally. He pointed out that Ireland is very reliant on the construction industry and if this slows down it is important to create alternative employment opportunities. When this land was designated a candidate SAC some people thought that no development whatsoever could take place and consideration was not given to the fact that development may help the bio diversity of the area. He was not calling for the removal of this designation as it is actually very important for the area and in particular the golf course. Scientists employed by the group have indicated that the golf course could improve the habitat of the area. An example of this is the golf course at Castlegregory which is a haven of flora and fauna. When the golf course was first proposed for this site it was said that the natterjack toad would be killed off. Yet an ideal environment has been created for them in a number of man made lakes and they have increased substantially in numbers. He stated it was difficult to calculate the socio economic benefits of Inch golf course. He called for the support of Kerry County Council in requesting the Minister to allow their scientists to debate with their scientists the benefits of Inch golf course with an independent arbitrator. At present the sand dunes at Inch are being torn apart by cattle and sheep. A chief Ecologist wrote to the scientists who compiled the report for the Minister asking why cattle and sheep are permitted on the sand dunes but no reply was received. The report on the proposed golf course at Inch stated that the area would be over fertilised. This is not so as any fertiliser used would be seaweed based. He again called on the members to support this project.

Cllr. M. O'Shea complimented Dr. Spring on his presentation and said that he wished to move Notice of Motion No. 23.

23. Deputation to meet with Minister Roche concerning the proposed golf course at Inch.

Pursuant to notice duly given Cllr. M. O'Shea proposed:-

"That we the Members of Kerry County Council give our unanimous support to the proposal of a golf course at Inch and that this Council sends a Deputation to meet with the Minister of Environment Mr Dick Roche at his earliest convenience."

Mr. C. O'Sullivan, SEO Corporate Services read the following report:-

This issue was previously the subject of a Notice of Motion at the February Council Meeting.

The history of the development of Inch Golf Course is as follows:

Work on the development of a Golf Course at Inch, County Kerry, came to the notice of Kerry County Council in early May, 1994 and work ceased when the developers were approached by the Council. The developers then made a submission to the Council on the basis that the work concerned, constituted exempted development having regard to the Local Government (Planning and Development) Regulations, 1977.

The development of Golf Courses, prior to 16th May, 1994 constituted exempted development, provided certain criteria were fulfilled. In accordance with the Local Government (Planning and Development) Regulation, 1994, which came into force on 16th May, 1994, the development of Golf Courses became subject to planning permission. Following consideration of the submission made by the developers, Kerry County Council confirmed that the development of the Golf Course was considered exempted development by the Planning Authority.

Following this decision, both An Taisce and the Department of Arts, Culture and the Gaeltacht made a reference to An Bord Pleanála, pursuant to Section 5 of the Local Government (Planning and Development) Act, 1963 as to whether the proposed golf course was or was not a development, or exempted development. An Bord Pleanála, subsequently in October, 1997 issued a decision, determining that the proposed development was exempted development.

However, the National Parks and Wildlife Section of the Department of Arts, Culture and the Gaeltacht then sought and obtained an injunction, preventing the proposed development from proceeding.

As the members are aware, the proposed site for the development of the Golf Course has been designated a Candidate Special Area of Conservation. The Habitats Directive sets down a clear procedure that needs to be followed in the case of any plan or project that may have a negative effect on the S.A.C. It is the responsibility of the Irish Authorities to ensure that the provision of the Habitats Directive are correctly applied. If they allow a damaging development to proceed, the European Commission must be informed of any compensation measures that are taken. The only considerations that may justify proceeding with a damaging development are in relation to human health or public safety or following a formal opinion from the European Commission to other imperative reasons of overriding public interest. Sand dune habitats such as 'grey dunes' which occur at Inch are considered to be of priority importance under the Habitats Directive.

At this stage, Kerry County Council do not have any further role to play but the Developers may submit another planning application, if they desire to do so.

Cllr. O'Shea said that this motion calls for the support of all members of the council for the proposed golf course at Inch and also calls for the sending of a deputation to meet with the Minister for Environment, Heritage and Local Government.

Cllr. M. Healy-Rae SECONDED this motion.

Cllr. M. O'Shea said that anyone who has any vision would agreed with the proposals for a golf course at Inch. Inch is the gateway to West Kerry from Killarney and it is also close to Kerry Airport. He believed it would be very successful if it was allowed to proceed. Dr. Spring is trying to create employment in this area and he could not understand when there was a golf course at this location in the 50's and the 60's why a new course is not permitted. This would be a viable industry and the proposal has cross party support in the chamber. He called on Kerry County Council to liaise with Minster Roche to enable a deputation from the council to meet with him on this issue.

All members present complimented Dr. Spring on his presentation and indicated their support for the project.

Cllr. J. O'Connor said that he was a keen golfer and it has been proven that for every €10 spent on golf, €90 is also spent on the local economy. He stated that most golf courses are maintained in as natural environment as possible. In Dooks Golf Course areas were designated for the natterjack toad and this has proved to be very successful. He supported the call for a meeting with Minster Roche as soon as possible.

Cllr. T. O'Brien welcomed Dr. Spring to the Chamber and indicated his support for this project.

Cllr. M. Healy-Rae said that he supported Dr. Spring in his endeavours to provide a golf course at Castlegregory at which time many people castigated him and felt that he did not know what he was doing. This has proved to be highly successful and he believed that Inch could also be a success and he fully supported Dr. Spring in his endeavours to provide a golf course at Inch.

Cllr. T. Fitzgerald said that Dr. Spring has an important history of providing golf courses throughout Ireland and they have all proved to be a major asset to their areas. He believed that the provision of a golf course at Inch would add to the beauty of the area and create much needed employment.

Cllr. S. Fitzgerald indicated his support for the Inch golf course and said that there is in excess of 1000 acres in the sand dunes and just 70 to 80 acres is required for the golf course. He pointed out that there was a golf course in Inch in the 1930's. He understands that the Department feel that if they give approval for this it may be in contravention of EU Regulations. He suggested that a delegation from the relevant Department of the EU be brought to the area and to Castlegregory to see at first hand how this type of development can be facilitated in an environmentally friendly way.

Cllr. M. Cahill said that Dooks Golf Course is a great example of how coastal erosion can be halted. He believed that Inch will be washed away if there is no investment in coastal erosion there. He called for this project to be allowed to proceed.

Cllr. J. Brassil indicated his support for the proposed golf course at Inch and asked what the members of Kerry County Council could do to help this project get approval from the Department. He believed the Doonbeg Golf Course was promoted by Shannon Development and all issues were subsequently resolved. This is a thriving example of what can be done when there is co-operation.

Cllr. P. Leahy indicated his support for the proposed golf course at Inch.

Cllr. B. MacGearailt stated that he had indicated that he wished to speak as he lives in the area.

The Mayor called on Cllr. J. Brassil to take the Chair as she was leaving.

Cllr. J. Brassil then took the Chair.

Cllr. B. MacGearailt indicated his support for the proposals by Dr. Spring for a golf course at Inch and said it is common sense. This is a similar case to Castlegregory which has proved to be very successful from an environmental point of view. He understood the difficulty with this project actually lies with Europe. He commended all involved in the project.

Mr. M. Riordan, County Manager, welcomed Dr. Spring to the Chamber together with the delegation from Inch and added that all members are in favour of providing a golf course at Inch. This golf course has a long and complex history and he stated that he wondered what the benefits of meeting with the Minister would be. He understood Dr. Spring wanted the opportunity to outline his scientific evidence to the Department. However, if a delegation from Kerry County Council met with the Minister he would refer it to the Planning Department. He pointed out that a report from scientists which is presently on the Minister's desk advises him not to approve this project. This then left him with a dilemma in going to the Minister.

Cllr. M. O'Shea stated that he wished to amend his motion that a delegation be sent to meet with the Minister for the Environment, Heritage and Local Government which would include one member from each political party and also Dr. Spring and his delegation.

Cllr. T. Fitzgerald supported this proposal and stated that the scientific evidence must be taken into consideration at the meeting with the Minister.

Dr. Spring thanked councillors for their support and said this golf course would be a fantastic advertisement for West Kerry. He recently met Mr. Brian Crowley, MEP in Inch who was very familiar with the Habitats Directive. He approached Minister Roche on this issue who stated that he would not support the proposed golf course. Eight people from the National Parks and Wild Life's Service visited the site but they would not meet with him and to date they have not demonstrated how a golf course would be injurious to the site. He believed that a golf course would be the botanical saviour of the area. He stated that the report written for Minister Roche was based on inaccuracies which stated

that they would be extracting ground water for irrigation. He pointed out that they had given an undertaking that they would use a mountain stream for irrigation. The construction of the golf course will not involve any extensive earth movement and he could not understand how the Department assumed this. At present there is no moss in the area or toads or water and if a golf course is provided water can be brought there and toads introduced to the area. The provision of a golf course will result in coastal protection in the area and this area is one of a few in Europe where there is an increase in the sand dunes. He understands that if the Minister gives approval for this he cannot be challenged by Europe. The general public are fully supportive of this project and it would be very beneficial from an environmental point of view.

Cllr. Michael O'Shea requested that a letter be forwarded to Minister Roche asking that he meet with a delegation from Kerry County Council together with the promoters of the project.

This was agreed.

06.06.19.17 Notice of Motion (continued)

18. Changing the Licensing Laws

Pursuant to notice duly given Cllr. M. Cahill proposed:-

“That Kerry County Council call on the Minister for Justice, Equality & Law Reform to change the licensing laws for Public Houses so that Christmas Eve along with Christmas Day would remain closed for business and that Good Friday would be opened up as a normal trading day.”

Mr. C. O'Sullivan, SEO Corporate Services said that this is a matter for resolution by the members.

Cllr. M. Cahill moved the motion and said that he was approached by a number of vintners with regard to this. Pubs close early on Christmas Eve and he felt that it would be reasonable that the law would be changed so that pubs remain closed on Christmas Eve and open on Good Friday as this is a day a lot of people travel.

Cllr. N. Foley said that she had no difficulty with pubs closing on Christmas Eve but she would not be in favour of them opening on Good Friday.

Cllr. J. Brassil pointed out that pubs are closed on Good Friday for a very genuine reason.

Cllr. L. Purtill supported the motion.

Cllr. N. Foley said that she would have no difficulty supporting the motion provided Good Friday was excluded.

Cllr. M. Cahill agreed to this.

A vote was taken which resulted as follows:-

For: Cllrs. Brassil, Cahill, Foley, Gleeson, MacGearailt, O'Brien, O'Connor, Purtill, (8)

Against: None (0)

Not Voting: None (0)

The Deputy Mayor declared the Proposal CARRIED.

19. Hedgecutting

Pursuant to notice duly given Cllr. M. Healy-Rae proposed:-

“That we the Members of Kerry County Council pass a Resolution directing Management to change its present policy in relation to 'hedge cutting' on the roads in our County. 'Hedge cutting' should be done by the Council as part of general road maintenance in each of our Engineering Area.”

Mr. C. O'Sullivan, SEO Corporate Services read the following report:-

The issue of hedgecutting and the responsibility for same has been debated, at length, at previous Council Meetings.

The responsibility for hedgecutting, under the 1993 Roads Act, rests with the landowner. A substantial number of landowners fulfill their requirement in relation to hedgecutting. In 2006 over 7,000 hedgecutting letters were issued. Following follow up inspections 333 hedgecutting notices were served. It appears that these landowners responded to these formal notices and therefore there was no need to instigate formal legal proceedings.

As members are aware Kerry County Council has a substantial mileage of roads which require hedgecutting on an annual basis. It is estimated that it would cost in excess of €0.5m to cut all hedges on public roads. This sum is not available. Were a nominal sum to be provided for hedgecutting it would create the following problems:

- (1) How do we decide what hedges should be cut?*
- (2) How do we deal with those hedges, not cut?*

It is our opinion that if we revert to nominal hedgecutting again we will not be able to pursue other landowners to get them to cut their hedges. This would be a retrograde step and would undermine the positive steps achieved in recent years.

Road Maintenance allocation is inadequate at present to deal with the required/necessary maintenance works. Increasing the demand on this limited allocation for hedgecutting works would not be acceptable.

Cllr. M. Healy-Rae said that for the first time councillors were given an approximate cost of cutting hedges. This is a very serious issue and all county roads are getting very narrow because of over grown hedges and there have been a number of accidents because of this. He stated that he had no conflict of interest relating to this debate. He informed the Manager that some engineers and overseers agree with this proposal. The present system is not working and Cork County Council is funding the cutting of hedges. He called for the allocating of €0.5million in the 2007 Budget to cut hedges.

Cllr. M. Cahill supported the motion and called for an annual allocation for the cutting of hedges. This is a very important road safety issue and he felt there was a difficulty with the issuing of hedge cutting notices because hedges are not being cut by landowners. Other local authorities cut roadside hedges to ensure that roads are safer.

Cllr. J. Brassil said that he would like to think that the policy of issuing hedge cutting notices, which has been adopted over the past three years, is working but landowners are not co-operating. It is an important safety issue.

Mr. T. Curran, County Engineer, indicated his agreement with the report and he did not think the situation was as bad as in previous times and there has been a positive response from landowners. 7,000 hedge cutting notices were issued. €0.5million could not be taken from the existing allocation for roads and it is the responsibility of landowners to cut hedges. In conclusion, he questioned the legality of Kerry County Council undertaking the cutting of roadside hedges.

Cllr. M. Healy-Rae called for a vote to be taken to change the current policy on the cutting of hedges as he believed Kerry County Council is falling down on its duty to the general public in not cutting hedges. He suggested a compromise that the area engineers be instructed that where roads are dangerous due to overgrown hedges that they be permitted to cut hedges and that a sum of €0.5million be provided in the Budget for 2007 for hedge cutting.

Mr. M. Riordan, County Manager said that many landowners are cutting hedges and there maybe isolated areas where this is not happening. If members advise the County Engineer of these areas they would arrange to prosecute the landowners in question.

Cllr. M. Healy-Rae said that members would not be prepared to do this.

Cllr. J. Brassil said that a number of years ago he fully supported Management's position. However, he has not seen an improvement and he felt it is an issue that should be debated at budget time.

Cllr. M. Healy-Rae suggested that it would be appropriate that Kerry County Council would buy its own hedge cutting machinery and cut the hedges themselves.

20. Establishment of a committee to deal with infrastructural development and Planning issues relating to the Ballylongford Land Bank

Pursuant to notice duly given Cllr. J. Brassil proposed:-

“In light of the major announcement made by Minister Micheal Martin regarding the development of the Shannon Development owned Ballylongford land bank that Kerry County Council put a team of people together to specifically deal with the infrastructure development and planning issues that will be associated with this project.”

Mr. C. O’Sullivan, SEO Corporate Services read the following report:-

The Ministers announcement in relation to the proposals for Ballylongford is to be welcomed. Preplanning discussion with Shannon LNG will shortly commence. The necessary planning and infrastructure teams will be put in place as discussions develop more fully the particular project proposal and the needs of the Ballylongford Land Bank generally. Project progress will be overseen by Sub Committee of Senior Management Team. The situation will be kept under review as the project progresses.

Cllr. J. Brassil welcomed the report and said that this has the potential to be a huge project for North Kerry and he called on the Executive to give it every support.

Cllr. L. Purtill welcomed the recent announcement for the development of part of Ballylongford Land Bank and supported Cllr. Brassil’s motion.

21. Appointment of a Regional Trails Co-ordinator

Pursuant to notice duly given Cllr. M. Gleeson proposed:-

“That the Council would provide the Members with an update on the appointment of and part-funding for a Regional Trails Co-ordinator.”

Mr. C. O’Sullivan, SEO Corporate Services read the following report:-

Padraig O’Donoghue from Killarney has been appointed as Regional Trails Coordinator for Kerry and Cork and began the post on the 15th May. The post is a three year pilot position. The contract of employment is with Cork Sports Partnership but Padraig reports to both Kerry and Cork Sports Partnership Coordinators. The aim of the project is to develop and implement a walkway and cycle path policy which will significantly improve the trails infrastructure within the region to the benefit of communities as well as tourism visitors and outdoor enthusiasts. It is anticipated that the investment in this post as a pilot in the Kerry/Cork region will substantially progress the sustainable development of trails in the region and will serve as a model to other counties/regions. The post in 2006 is being funded 50% from the Irish Sports Council, 25% from Cork County Council and 25% from Kerry Local Sports Partnership, and commitment is in place from the Irish Sports Council and Cork County Council for funding for 2007 and 2008. A programme budget in 2006 is funded by Cork County Council for €10,000 and €5,000 from Kerry Local Sports Partnership.

Cllr. M. Gleeson stated that the Kerry Local Sports Partnership, on which he is the Council's representative, has been doing tremendous work in assessing the facilities which exist in the county and in determining how to answer the needs which have been identified. The Partnership receives an annual grant from the Irish Sports Council which is used to pay salaries, produce regular newsletters and provide grants to various Clubs. To make real progress in the area of recreation the Partnership needs the enthusiastic support of the Council and the provision of meaningful financial resources at Budget time. Indeed was it not for the invited intervention of our previous Manager the Local Sports Partnership could have gone out of existence.

Cllr. Gleeson welcomed the appointment of Mr. O'Donoghue as Regional Trails Coordinator for Kerry and Cork for a 3 year trial period. He stated that the Local Sports Partnership does not have the funding required to meet its obligations seriously and he would have to consider his position if the Partnership had to seek sponsorship to meet its obligations. Everyone knows how important recreation is and Kerry as a county with a proud sporting tradition have an obligation in this area.

Cllr. M. Cahill **SECONDED** the motion.

Mr. M. Riordan, County Manager, said that this issue needs to be debated further. The Kerry Local Sports Partnership is operated and managed by Kerry County Council and we have an obligation to protect those who work on it. It is important to concentrate on the product.

22. Wind Energy Projects in West Kerry

Pursuant to notice duly given Cllr. B. MacGearailt PROPOSED:

That the relevant staff members of Kerry County Council engage with groups in the west Kerry region who indicated interest in wind energy projects.

Mr. C. O'Sullivan, SEO, read the following report:

The provisions of the Kerry County Development Plan 2003 - 2009 in particular Section 6.4 relating to windfarms does not zone land in west Kerry for wind turbines. This decision was taken in view of the sensitivity of the landscape, the contribution of the landscape to the economy and the area and the quantity of land zoned for windfarms throughout the County. In addition, the infrastructure necessary for connection to the grid does not exist in the area.

Cllr. B. MacGearailt stated that the report is at variance with the facts. When the County Development Plan was adopted he requested that a number of areas in West Kerry be zoned for the development of windfarms. He was asked not to pursue those zonings at the time as it could be reviewed at a later date. He agreed to this. He asked that the report be reconsidered as it was not accurate.

Cllr. M. Gleeson SECONDED the motion.

25. Development of a marina/pier at Rossbeigh Beach

Pursuant to notice duly given Cllrs. M. Cahill and P. O'Donoghue PROPOSED:

As Rossbeigh is Kerry's premier seaside resort and the fact that this Local Authority is the landowner in question we propose that Kerry County Council in conjunction with the Department of Marine & Natural Resources develop a marina/pier at Rossbeigh Beach.

Mr. C. O'Sullivan, SEO, read the following report:

Kerry County Council is responsible for 56 piers and landing facilities in the County. There is a substantial cost in maintaining these facilities and many of the facilities require urgent improvement. At present Kerry County Council is committed to the construction of a new pier at Cromane, the upgrading of Knightstown, Renard and Scraggane Piers. As well as other works on piers such as Ballinskelligs, Bunavalla, Tarbert and Coonana.

It would not be prudent or feasible to commit to a further new pier in Rossbeigh. Furthermore a need for and a feasibility study including a hydrodynamic study would be required as a first step.

Due to the commitment of the Council to other piers at this stage it would not be possible to take on this proposed new project.

Cllr. M. Cahill expressed his disappointment with the report and stated that he understood at an Area Meeting that consideration would be given to providing a marina at Rossbeigh in conjunction with coastal protection works when work commences on the new pier at Cromane next year. He requested that consideration be given to re-establishing the Fisheries Committee because of the importance of the fishing industry to the county.

Mr. M. Riordan, County Manager, informed the meeting that Kerry County Council is committed to substantial works to piers in the county and until this work programme is complete it would not be advisable to undertake any new projects.

06.06.19.18 Correspondence – Conferences and Seminars

(a) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. J. Brassil it was resolved to authorise the attendance of Cllr. T. Fleming at the Chambers Ireland 2nd Annual Regional Policy Forum on the theme "A Wake Up Call for Irish Regional Policy" to be held in Mullingar on Friday, 23rd June, 2006.

Cllr. Fleming was nominated to report back to the council on this Forum.

(b) On the PROPOSAL of Cllr. J. Brassil, SECONDED by Cllr. M. Cahill it was resolved to authorise the attendance of Cllrs. T. Fitzgerald, T. Sheahan, P. McCarthy and N. O'Sullivan at the Synge Summer School to be held in Rathdrum, Co. Wicklow from 2nd – 8th July, 2006.

Cllr. Sheahan was nominated to report back to the council on this Summer School.

(c) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. J. Brassil it was resolved to authorise the attendance of Cllr. A. McEllistrim at the Confederation of European Councillors Seminar to be held in Wexford on Friday, 23rd June, 2006.

Cllr. McEllistrim was nominated to report back to the council on this Seminar.

(d) On the PROPOSAL of Cllr. M. Gleeson, SECONDED by Cllr. J. Brassil it was resolved to authorise the attendance of Cllrs. B. Cronin and S. Fitzgerald at the 11th Annual Dr. Douglas Hyde Summer School of Traditional Irish Music to be held in Ballaghaderreen, Co. Roscommon from 2nd – 8th July, 2006.

Cllr. S. Fitzgerald was nominated to report back to the council on the Summer School.

(e) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. J. Brassil, it was resolved to authorise the attendance of all elected members of SPC's at the IPA Training Seminars at various locations throughout the country on various dates.

(f) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. J. Brassil, it was resolved to authorise the attendance of Cllrs. M. O'Shea and C. Miller at the Westport Experience Conference held in Westport on the 18th & 19th May, 2006.

(g) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. J. O'Connor, it was resolved to authorise the attendance of Cllr. P. McCarthy at the Marine Tourism Conference held in Carlingford, Co. Louth on the 31st May & 1st June.

(h) On the PROPOSAL of Cllr. J. Brassil, SECONDED by Cllr. M. Cahill, it was resolved to authorise the attendance of Cllr. N. Foley at the Fuchsia Brand Conference held in Kinsale from 31st May to 1st June, 2006.

(i) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. J. Brassil, it was resolved to authorise the attendance of Cllr. M. Healy-Rae at the Tourism Conference held in Dunadry, Co. Antrim on the 3rd & 4th February, 2006.

(j) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. J. Brassil, it was resolved to authorise the attendance of Cllr. T. Fleming at the BMW Regional Assembly Conference held in Ballinlough, Co. Roscommon on the 8th June, 2006.

(k) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. J. Brassil, it was resolved to authorise the attendance of Cllr. T. Ferris at the Kerry Mental Health Conference held in the Gleneagle Hotel, Killarney on the 26th & 27th May, 2006.

(l) On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. J. Brassil, it was resolved to authorise the attendance of Cllrs. T. Ferris, T. Fleming, J. Brassil, P. McCarthy, B. O'Connell, P. Leahy, S. Fitzgerald, N. O'Sullivan, T. Buckley and R. Beasley at the Kerry Environmental Recognition Conference held in Ballybunion from 26th – 29th April, 2006.

06.06.19.18 Correspondence General

It was agreed to note the following items of correspondence which were circulated.

1. Letter dated 15th May, 2006 from Iarnród Éireann concerning the frequency of the direct Kerry to Dublin service.
2. Letter dated 22nd May, 2006 from the HSE, Kerry area, regarding the new Community Hospital in Tralee.
3. Letter dated 23rd May, 2006 from the Office of the Minister for Finance concerning the possibility of introducing a VAT refund on defibrillators to sporting bodies and social clubs.
4. Letter dated 26th May, 2006 from the Office of the Local Health Office Manager, Kerry area, concerning the Home Help Service.
5. Letter dated 30th May, 2006 from the Office of the Minister for Community, Rural and Gaeltacht Affairs regarding the CLÁR programme.
6. Letter dated 31st May, 2006 from the HSE, Southern Area, regarding the Ambulance Service in Listowel and Killarney.
7. Letter dated 7th June, 2006 from the Office of the Minister for Transport concerning the implementation of the Action Plan 2006-2007, Driving Forward, published by the Commission for Taxi Regulation.
8. Letter dated 7th June, 2006 from the Commission for Communications Regulation regarding the broadcasting of mass on 107FM.
9. Letter dated 7th June, 2006 from the Office of the Minister for Communications, Marine and Natural Resources regarding the broadcasting of mass.
10. Letter dated 12th June, 2006 from the Office of the Tánaiste and Minister for Health and Children regarding funding for medical and surgical aids and appliances to the Health Service in Kerry.
11. Brochure and leaflet on the Irish Delegation to the Committee of the Regions.
12. Email from Sligo Borough Council concerning a resolution adopted by that authority calling on the government to overhaul the electoral register.
13. Letter dated 1st June, 2006 from Waterford City Council concerning a resolution adopted by that authority calling on the Minister for Health to expedite screening for breast cancer for women.
14. Letter dated 29th May, 2006 from North Tipperary County Council concerning a number of resolutions adopted by that authority calling for (a) an end to the means testing for the Carer's Allowance and to increase funding to increase the number

of respite beds and home helpers and (b) that Carers come under the remit of the Department of Health and Children and not the Department of Social and Family Affairs.

15. Letter dated 6th June, 2006 from Longford Town Council concerning a resolution adopted by that authority calling for the employment of school leavers during the summer holidays to carry out an examination of the current electoral register etc.
16. Letter dated 6th June, 2006 from Monaghan Town Council concerning a resolution adopted by that authority regarding telecommunication masts.

Cllr. M. Gleeson referred to the reply received from the Office of the Minister for Finance concerning a refund of VAT on the purchase of defibrillators by sporting organisations and he stated that it is deplorable that Ireland's flexibility has been waved.

06.06.19.20 Any other business

Cllr. M. Cahill referred to the closure of Rossbeigh Caravan Park and stated that there are no disabled toilets available there. He agreed that an EIS must be carried out and members had agreed that if An Bord Pleanála refused to authorise Kerry Council to operate a caravan park they would accept that decision. At that time member voted 18 to 2 in favour of keeping the caravan park open and he was extremely disappointed that the wishes of the members and the general public was not taken into consideration. He had contacted the Minister with responsibility for this issue and he informed him that he had no problem with the caravan park remaining open while the EIS was being carried out.

Cllr. M. Gleeson supported the views expressed by Cllr. Cahill.

Mr. M. Riordan, County Manager, stated that the report presented to the members pointed out that the continued use of the caravan park could have serious implications for the awarding of a Blue Flag for the beach at Rossbeigh. He was not aware of any change in the position of the NPWS on this issue.

Cllr. J. O'Connor also stated that he understood that the NPWS had no problem with the council continuing to operate the caravan park while the EIS was being carried out.

Cllr. M. Gleeson agreed with this.

The Deputy Mayor, Cllr. J. Brassil, requested Management to contact the NPWS to seek clarification on this issue.

Mr. Riordan stated that he had met with the NPWS and they had restated their position.

Vote of congratulations

Cllr. M. Gleeson extended a vote of congratulations to Mr. Dan Kavanagh, former County Engineer, and his wife on their 60th wedding anniversary.

The meeting concluded at 5pm..

C. Ó Súilleabhain
SEO Corporate Services

Mayor of Kerry

OMBUDSMAN ATTACHMENT

10. LNG Planning Submission by Kilcolgan Residents Association

Kilcolgan Residents Association
c/o Johnny McElligott
Island View,
5 Convent Street,
Listowel,
County Kerry
johnmcelligott@hotmail.com
Tel: (087) 2804474

14th November 2007

An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

Submission to An Bord Pleanála regarding the Proposed Liquefied Natural Gas (LNG) regasification terminal located on the Southern shore of the Shannon Estuary in the townlands of Ralappane and Kilcolgan Lower, County Kerry (reference PL08 .PA0002 and PC 08.PC0002).

Dear Sir/Madam,

Further to our submission dated 14th November we wish to add the following points:

1. 1. The site layout plan submitted by Shannon LNG (drawing C013) it is noted
 - i. “AREA DESIGNAATED FOR GAS EXPORT A.G.I. (to be subject of separate planning application) “
 - ii. “AREA DESIGNATED FOR EIRGRID 110KV SWITCHYARD (to be subject of separate planning application) “We object that this is not all submitted as part of the main planning application because it is another example of project slicing (raised in point 14 of our submission yesterday) and because of the dangers they pose for creating another source of static electricity, an ignition source, in the QRA.
2. 2. We do not understand why the existing buildings closest to the main road have to be demolished, because there are no other plans for that area disclosed.
3. 3. We urge An Bord Pleanala to view the RTE “Prime Time” program of November 15th, 2007 on the RTE website www.rte.ie/news/primetime/index.html, entitled “Safety Concerns over safety gas terminal: : Katie Hannon reports from the North Kerry Village of Kilcolgan where it is proposed to build a liquefied natural gas terminal despite some local opposition” and bring to the Bord’s attention that it was clearly proved that:
 4. i. Shannon LNG lied when it told the public that vapours from a leak would harmlessly evaporate – “a myth”, the LNG industry Mr. Cox described it as
 5. ii. The barrister clearly raised serious questions about the legitimacy of this fast-track planning process, which are depriving us for fair application of justice and which bring seriously in to question the manner in which this application is being dealt with..
6. For these reasons we recommend rejection of the planning application.

4. Adam Kearney has uncovered even more serious questions on the rezoning of the landbank to Industrial from rural general in March of this year as follows in an email to Kerry County Council today:

From: Adam Kearney Associates [mailto:info@akassociates.ie]
Sent: 16 November 2007 11:40
To: Kena Felle
Cc: McElligott, John
Subject: SEA Screening Report

16/11/07

Dear Kena,

I would like to know if a SEA (Strategic Environmental Assessment) screening report was compiled by Kerry County Council for Variation No. 7 of the County Development (To rezone 188.8ha (466.53 acres) of land, comprising 105ha (261.43 acres) currently zoned as Rural General and 83ha (205.1 acres) currently zoned as Secondary Special Amenity, in the townlands of Reenturk, Rallappane and Kilcolgan Lower, to Industrial zoning). If so I would like a copy of same. It was stated in the County Managers report on Variation No. 7 in response to a submission by Clare County Council that a copy of the SEA screening report would be sent to them. Yesterday I spoke with the Senior Executive Planner John Bradley who made the submission on behalf of Clare County Council, he informed me that they had not received a screening report. I also contacted the EPA who cannot confirm receipt of the report either. As the deadline for public submissions to An Bord Pleanála for the proposed Regasification Terminal in Tarbert is this evening at 5 pm I am extremely restricted on time and need clarification on this issue. If it is the case that an SEA screening report was not conducted for a variation to a development plan then the validity of the rezoning has to be questioned. Under Statutory Instrument No 436 Article 7 section 13K and article 12 Schedule 2A of the same Statutory Instrument 2004 legislation it is quite clear on the procedures required for making a variation to a plan.

Yours Sincerely,

Adam Kearney

Tom Sheehy, of Kerry County Council sent the report today (see attachment 33).

The copy of the screening report was not sent to any of the statutory bodies as it was felt there was no need for an SEA as there was no environmental impact, in spite of the serious reservations raised by Clare County Council.

We object that since this planning application is going to have a serious effect on the environment an SEA must be undertaken before the land is rezoned and that planning permission should be refused as this will have a huge impact on the strategic development of the region. Furthermore, we intend to raise this question with the Department of the Environment, and both the Ombudsmans Office and the Standards in Public Office because we feel that this land was rezoned solely for Shannon LNG, when it was known that a huge environmental impact was going to happen – all this done in the interests of avoiding an SEA and rushing this Seveso II site through planning.

We request therefore, that until these matters are concluded that planning be refused.

Yours faithfully,

Johnny McElligott

Attachment 33 – Ballylongford screening Report

An Bord Pleanala,
64 Marlborough Street,
Dublin 1.

Direct Planning Application to An Bord Pleanala in Respect of a Strategic Infrastructure Development

Case reference: PL08 .PA0002 (liquefied natural gas regasification terminal proposed for Ralappane and Kilcolgan Lower, Co. Kerry)

Name of Person (or agent) making submission/observation: Johnny McElligott (Group submission for the 'Kilcolgan Residents Association')

Address to which Correspondence should be sent: Island View, 5 Convent Street, Listowel, Co. Kerry

Subject matter of submission or observation: Proposed LNG Terminal: Recommending complete Rejection of the Planning application

Reasons/Considerations/Arguments:

We are objecting to the submitted planning application due to, among other things, the safety, environmental, economic and residential amenity grounds supported in detail in the attached letter

(Please use additional pages if necessary & attach supporting documentation if applicable)

Fee: There is no fee applicable in this instance

Signed:

Date:

Johnny McElligott

Name	Address
Johnny McElligott	Island View, 5 Convent Street, Listowel, Co. Kerry
Morgan Heaphy	Glencullare North, Tarbert, Co. Kerry
Patricia Anglim O'Connor	Saleen, Tarbert, Co. Kerry
Josephine Anglim	Saleen, Tarbert, Co. Kerry
Adam Kearney	Bridge Street, Ballylongford, Co. Kerry (landowner Kilcolgan, Tarbert)
Seamus Leane	Knockenagh, Listowel, Co. Kerry (land-owner Puleen, Tarbert)
Fiona Leane	Knockenagh, Listowel, Co. Kerry (land-owner Puleen, Tarbert)
Michael O'Connor	Upper Kilcolgan, Tarbert, Co. Kerry
Willie Hayes	Puleen, Tarbert, Co. Kerry
Kathleen Hayes	Puleen, Tarbert, Co. Kerry
Richard McElligott	Gunshoro, Knockenagh North, Listowel, Co. Kerry (landowner Kilcolgan)
Shannon O'Mahony (Age 6)	Kilcolgan, Tarbert, Co. Kerry
Raymond O'Mahony	Kilcolgan, Tarbert, Co. Kerry
Tim Mahony	Kilcolgan, Tarbert, Co. Kerry
Padraig O'Connor	Upper Kilcolgan, Tarbert, Co. Kerry
Margaret O'Mahony	Kilcolgan, Tarbert, Co. Kerry
Margaret Finnucane	Kilcolgan, Tarbert, Co. Kerry
Kathleen Finnucane	Kilcolgan, Tarbert, Co. Kerry

Andrew Finnucane	Kilcolgan, Tarbert, Co. Kerry
Noleen Finnucane	Kilcolgan, Tarbert, Co. Kerry
Ann Marie Finnucane	Kilcolgan, Tarbert, Co. Kerry
Catherine Finnucane	Kilcolgan, Tarbert, Co. Kerry
Seamus Finnucane	Kilcolgan, Tarbert, Co. Kerry
Sean Heaphy	Lislaughtin Abbey, Ballylongford, Co. Kerry
Michael Heaphy	Lislaughtin Abbey, Ballylongford, Co. Kerry
Ena O'Neill	Puleen, Tarbert, Co. Kerry
Jim O'Neill	Puleen, Tarbert, Co. Kerry
Michael O'Connor	Carhoonakineely, Ardmore, Tarbert, Co. Kerry
Beatrice O'Mahony	Kilcolgan, Tarbert, Co. Kerry
Chris Kelly	Carhoonakilla, Tarbert, Co. Kerry
Jayne Kearney	Kilcolgan, Tarbert, Co. Kerry
Kenneth Finnucane	Ballymacassy, Ballylongford, Co. Kerry
Kathleen Kelly	Carhoonakilla, Tarbert, Co. Kerry
Frank Kelly	Carhoonakilla, Tarbert, Co. Kerry
Esther Flavin	Carhoonakilla, Tarbert, Co. Kerry
Mary Kelly-Godley	Glensillagh, Tarbert, Co. Kerry
Sasha Godley	Glensillagh, Tarbert, Co. Kerry
Brian Godley	Glensillagh, Tarbert, Co. Kerry
Noelle Jones	Carhoonakilla, Tarbert, Co. Kerry
Ger Buckley	Cockhill, Tarbert, Co. Kerry
Eileen O'Connor	Lislaughtin, Ballylongford, Co. Kerry (landowner Kilcolgan)
Chloe Griffin (age 10)	Carhoonakilla, Tarbert, Co. Kerry
Catriona Griffin	Carhoonakilla, Tarbert, Co. Kerry
Pat Griffin	Carhoonakilla, Tarbert, Co. Kerry
Patricia O'Connor	Saleen, Tarbert, Co. Kerry
Ger Shanahan	Kilcolgan, Tarbert, Co. Kerry
Donncha Finnucane	Kilcolgan, Tarbert, Co. Kerry
John O'Connor	Lislaughtin, Ballylongford, Co. Kerry (landowner Kilcolgan)
Bridget Shanahan	Kilcolgan, Tarbert, Co. Kerry
John J O Mahony	Kilcolgan, Tarbert, Co. Kerry
Lily O'Mahony	Kilcolgan, Tarbert, Co. Kerry
TJ O'Mahony	Kilcolgan, Tarbert, Co. Kerry
Geraldine Carmody	Kilcolgan, Tarbert, Co. Kerry
Cathal Carmody	Kilcolgan, Tarbert, Co. Kerry
Betty Doherty	Kilcolgan, Tarbert, Co. Kerry
James Doherty	Kilcolgan, Tarbert, Co. Kerry
Anthony O'Mahony	Kilcolgan, Tarbert, Co. Kerry
Jamie O'Mahony (age 5)	Kilcolgan, Tarbert, Co. Kerry
Catherine Heaphy	Glencullare, Tarbert, Co. Kerry
Tom O'Connor	Ardmore, Tarbert, Co. Kerry
Kathleen O'Connor	Ardmore, Tarbert, Co. Kerry.

Kilcolgan Residents Association
c/o Johnny McElligott
Island View,
5 Convent Street,
Listowel,
County Kerry
johnmcelligott@hotmail.com
Tel: (087) 2804474

14th November 2007

An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

Submission to An Bord Pleanála regarding the Proposed Liquefied Natural Gas (LNG) regasification terminal located on the Southern shore of the Shannon Estuary in the townlands of Ralappane and Kilcolgan Lower, County Kerry (reference PL08 .PA0002 and PC 08.PC0002).

Dear Sir/Madam,

This submission is being made by nearby residents of the proposed LNG regasification terminal and by people with close family and economic ties to the area. We are totally opposed to the planning application in its present form and ask that An Bord Pleanála refuse planning permission to Shannon LNG.

It must be highlighted that there are serious environmental, safety, economic, residential-amenity and other concerns surrounding the proposed LNG terminal in Tarbert parish, which have not been raised at all to date. These concerns may be overlooked by the general public until it is too late as the decision by An Bord Pleanála on whether or not to grant planning permission will already have been made. This is because the new fast-track planning process allowed for this application means that all environmental, safety and development issues are being examined in parallel and by different government bodies without the right of appeal in the planning process that would exist if the application was first submitted to Kerry County Council. This is unacceptable because it is depriving the public of meaningful or effective participation in the planning process due to information not being disclosed in a timely manner and therefore removing the transparency that must continue to exist in the planning process. This is contrary to both the Planning and Development Act 2000 and the EU EIA directive. For this reason we hereby insist on being allowed to make more submissions once this information has been obtained.

The primary concern is the lack of safety for nearby residents due to the fact that they live too close to the proposed site. Conservative scientific evidence provided below shows that it is unsafe to live within 3 miles of the site. This area covers the villages of Ballylongford, Tarbert and Killimer in County Clare. More seriously, the limited QRA undertaken by Shannon LNG itself admits categorically that a vapour cloud from a leaked tank could travel as far away as **12.4 kilometers** before being ignited (page 32). This will mean that the Kerry towns and districts of Asdee, Moyvane and Beal, the Limerick town of Glin and the Clare towns of Kilrush, Moyasta, Killimer, Knock and Kilmurry McMahon, as well as surrounding countryside, are in the possible fallout zone. This is from Shannon LNG's own research.

This will therefore also prevent further use being made of the rest of the land bank due to the danger posed to people working nearby, if safety standards are in fact implemented.

The most serious environmental concern is that up to 100 million gallons of chlorinated seawater will be pumped into the estuary daily, causing serious environmental damage to the eco-system of this SAC area. The withdrawal and discharge of huge volumes of seawater would affect marine life by killing ichthyoplankton and other micro-organisms forming the base of the marine food chain unable to escape from the intake area. Furthermore, the discharge of cooled and chemically-treated seawater would also affect marine life and water quality.

The most serious economic concern is that the gas-industry's own standard-recommended exclusion zone of 2 miles around an LNG tanker will stop shipping – including the Tarbert-Killimer car ferry - in the estuary every time an LNG tanker is in the area (and Shannon LNG plan up to 125 tankers a year) and prevent marine use of the rest of the land bank – if those safety standards are implemented.

Finally, whereas the developer emphasises that it is in the national strategic interest to have an LNG terminal in Ireland, we are of the opinion that only a strategic interest in LNG as another strategic alternative source of gas in Ireland has been accepted and that there has been no acceptance of the strategic need for an LNG terminal if no suitable site in Ireland is found. This distinction is very important because this need for LNG is already being met with the construction of the LNG terminals in the UK which can then provide LNG to Ireland via the existing gas pipeline from the UK. It must also be noted that the developer, in any case, does not guarantee supply of LNG via Tarbert. What is proposed is no more than a private storage and transshipment facility albeit on a very large scale. It does not purport to offer any strategic benefit to the country, nor in reality does the country gain any strategic benefit from it. On the contrary, it undermines the stated government policy. It does so in a number of respects - in particular by entirely prejudging the outcome of the all-Island study and the strategic goal No. 2 in the government's white paper on delivering a sustainable energy solution for Ireland.(See 17 below). On that basis alone the application is clearly premature and should be refused.

The methodology used in this submission is to support each topic with data from published scientific reports, governmental reports, decisions and strategy documents, statutory regulations (both Irish and European) and from standards produced by the Gas industry itself. Any reference to non-scientific based claims will be clearly stated. Data was collected initially by various members of the association individually. This was then followed on by a visit to the Dragon LNG plant at Milford Haven in Wales on October 13th 2007 where the views of concerned residents were noted. Information was raised since then in contacts with Shannon LNG at their office in Listowel on October 15th, with other local residents in Tarbert in meetings with Shannon LNG representatives on October 18th and October 29th, and with various governmental, scientific, academic and voluntary organisations in Ireland and abroad. Our concerns were taken seriously by one and all but many questions were left unanswered. The overwhelming feedback has been that a submission of these concerns needs to be made to An Bord Pleanála,

For the reasons given below we submit that the Bord is obliged to refuse the application. We accept that the Bord may of course take a different view. While we reserve our rights to challenge such a view if necessary we make any comments on conditions that could be applied by the bord if it grants permission to the developer entirely without prejudice to our over-riding contention that this application should be refused.

STATUTORY REGULATIONS:

- Planning and Development Acts 2000 – 2006. This includes the Planning and Development (Strategic Infrastructure) Act 2006
- EU Habitats Directive 92/43/EEC On the conservation of natural habitats and of wild fauna and flora– as 25 acres of the site is in a Special Area of Conservation (SAC)
- EU 1998 Aarhus Convention Directives, Directive 2003/4/EC and Directive 2003/35/EC – on the right of the public to be informed on the environmental impact and being provided with the opportunity to make comments and have access to justice
- EIA directive 87/337/EEC as amended by Directive 97/11/EC - concerning the effects of certain public and private projects on the environment, the precautionary, preventative-action and polluter-pays principles
- Seveso II Directive 96/82/EC as amended by 2003/105/EC – for placements of hazardous sites
- EU Water Framework directive 2000/60/EC
- Kyoto Protocol
- County Clare and County Kerry Development Plans
- European Convention on Human Rights Act 2003
- Planning and Development (Strategic Environmental Assessment) Regulations 2004

INVALID APPLICATION

1. The developers in their planning application describe the 10 hectares to be developed offshore as zoned industrial. This is false as it is zoned Special Area of Conservation. We therefore object to this invalid and misleading application and want the whole application to be declared invalid – as would be the case if an individual made such a serious and misleading mistake in a planning application.

SAFETY ZONE

2. The evidence obtained from the Dr. Jerry Havens' Report (see. attachment 1), prepared by the Public Utilities Commission of the State of California for the Federal Energy Regulatory Commission, highlights worrying scientific evidence. Dr. Havens, Distinguished Professor of Chemical Engineering at the University of Arkansas and Director of the University's Chemical Hazard's Research Center, concluded that people living within **3 miles** of the proposed site would be in harm's way (this radius covers the Kerry villages of Tarbert and Ballylongford and the Clare village of Killimer). "Dr. Havens is extremely qualified and has studied LNG safety issues for more than 30 years. His primary specialisation is in the analysis and quantification of the consequences of releases of hazardous materials into the environment, with emphasis on the consequences that can occur as a result of toxic and/or flammable gas releases into the atmosphere". "He has provided detailed analysis supporting his conclusion that there should be a minimum of 3 miles between an LNG terminal and a densely populated area. Anything closer than **3 miles** could put the public in harm's way." This is based on a spillage of 3,000,000 gallons of LNG, which he claims is widely accepted as credible.

However, he also examines the consequences of a vapour cloud fire which could result if the LNG spill vapours were not immediately ignited and a vapour cloud formed. The cloud thus formed would drift downwind until it reached an ignition source or became diluted below the flammable concentration level - after which time it would not constitute a hazard. In his opinion, the maximum distance downwind to which portions of a cloud (sufficiently large to constitute a severe fire hazard) formed

from the rapid spillage onto water of 3,000,000 gallons of LNG could be ignited is approximately 3 miles. If the vapour cloud were ignited as it drifted downwind, those persons in that area or immediately adjacent (thermal exposure could occur at some distance beyond the edge of the fire) who could not gain protection could be killed or seriously injured.

In any case, he states that such fires cannot be extinguished and would just have to burn themselves out.

Havens also deals with the explosion hazards of confined vapour cloud explosions, unconfined vapour cloud explosions, boiling liquid expanding vapour explosions, Toxicity hazards, Cryogenic (“cold” burn) hazards and Rapid phase transition (flameless explosion) hazards. Their importance in the public safety context lies in the potential for RPT’s to cause secondary damage which could lead to cascading failures and further releases of LNG.

Dr. Havens’ report is based on a spill of 3 million gallons. The EIS submitted by Shannon LNG proposes (volume 1 page 3) to design a jetty capable of taking ships with a capacity of up to 265,000 m3 of LNG. This is equivalent to 58 million gallons approximately.

The distance of the proposed site from vulnerable residential areas must therefore be taken into account by An Bord Pleanála.

3. The limited QRA implemented by Shannon LNG goes even further than the Havens’ report when it admits that a vapour cloud could travel up to 12.4 kilometres before being ignited:

“A rule-set has been created for the QRA by considering the development of the largest cloud produced by the consequence analysis, that for catastrophic failure of a full tank in F2 weather. This cloud has a maximum downwind distance to LFL [lower flammable limit] of 12.4 km.” (they do not state how far the cloud could travel beyond this distance before it meets the upper flammable limit – the level at which the oxygen mix with the gas is so high that the gas can no longer be ignited).

LNG FIRE HAZARDS

4. A report by the IoMosaic Corporation – “Understand LNG Fire Hazards” (see attachment 19 page 15) found that the maximum impact hazard footprint of a 200,000 m3 LNG tanker will result from a pool fire leading to a fatality limit of 50 percent at a distance of 3.7 kilometres from the leak.
5. The safety zone of 3 miles conservatively required by the Havens’ report has implications for further residential development in the area surrounding the gas terminal. It will potentially have the effect of sterilising residential areas (stopping any new houses from being built on safety grounds) and it will also prevent other areas of the landbank from being developed as the levels of risk increase with more complex developments side by side. Shannon LNG proposes in the EIS (volume 1 page 5) that the remainder of the site may be used for a gas-fired power station, but the exclusion zone of 3 miles will make this proposal untenable. The Bord is asked to take these issues into consideration and issue an opinion on them as they will have serious social and economic long-term consequences on the area. In any case, Article 12 of the EU Seveso II directive states: “Member States shall ensure that their land-use and/or other relevant policies and the procedures for implementing those policies

take account of the need, in the long term, to maintain appropriate distances between establishments covered by this Directive and residential areas”.

6. SIGTTO (The Society of International Gas Tanker and Terminal Operators Ltd) is a non profit making company, formed to promote high operating standards and best practices in gas tankers and terminals throughout the world. It provides technical advice and support to its members and represents their collective interests in technical and operational matters. To become a full Member of SIGTTO it is necessary for a company to have equity interest in or to operate a gas tanker or terminal. Two of the company’s published works are
 - **“LNG Operations in Port Areas : Essential best practices for the industry”** (see. attachment 2) which SIGTTO describe as follows: "This document draws on this collective experience in setting out guidance to best practice for managing gas shipping operations within ports. It also illuminates the profile of risks attaching to gas operations, for the information of those who administer", and
 - **“Site Selection & Design (IP no.14) for LNG Ports & Jetties”** (see. attachment 3) which SIGTTO describe as follows: “Information Paper No.14: Bearing in mind the high consequential risks of a serious accident in the LNG trade, this publication has been prepared for port developers as a guide to the minimum design criteria considered necessary when a port is to be built or altered to accommodate LNG carriers.” Although HESS is not a member of SIGTTO, in the absence of direct Irish or EU regulation on the matter, it is only reasonable to expect that HESS would follow the standards set by its own industry.

In the public meeting held at the “Lanterns Hotel” in Tarbert on October 29th 2007, Shannon LNG stated that the SIGTTO standards were “a wish list for the ideal site, which was not, in any case, binding on Shannon LNG”. We object extremely strongly to this claim because the Gas industry’s own standards should be a minimum that the Kilcolgan Residents Association would expect to be applied. The Bord is fully entitled to regard that response from Shannon LNG as an admission that the present application does not match what they accept is “a wish list for an ideal site”. There is no objective reason why the Bord should depart from that standard when assessing this application. The Bord has the opportunity, as well as the Statutory obligation to maintain the highest possible standard and the Company’s statement eloquently describes exactly what that standard is

RISK ASSESSMENT

7. a) SIGTTO clearly state in “LNG Operations in Port Areas:Essential best practices for the industry” that risk exposures entailed in an LNG port project should be analysed by a Quantitative Risk Assessment (QRA) study which “must involve the operations at the terminal and the transit of tankers through the port” (Section 2 page 5).

Shannon LNG have only undertaken a QRA for the storage tanks on the shore, but no QRA has been done on the marine side of the operation. This is not in line with the industry’s own best practice guidelines. The QRA includes a tanker on the jetty but it does not consider ship collision between two ocean-going vessels. It should be bourn in mind that tug boats themselves can also be a cause of collision

b) The SIGTTO standards also clearly state (page 7) that any risk-mitigating factors introduced - such as traffic control, exclusion zones around transiting tankers, tug escorts and specified limiting operating conditions of wind speed and visibility – should also be used in the QRA. This has not been done.

c) No QRA of intrusive risk exposures has been undertaken either. There are two categories of intrusive risk; that arising from intrusions threatening the physical integrity of the terminal and berthed tankers (e.g. heavy displacement ships), and that arising from the introduction of uncontrolled ignition sources.

d) Shannon LNG (in EIS Volume 2, section 3.10.2.3) states that “Shannon LNG understands that a more detailed Quantitative Risk Assessment (QRA) covering all navigational aspects of shipping will be undertaken by Shannon Foynes Port Company during development of the project”. This splitting of risk assessment responsibility is not acceptable and indeed dangerous. Furthermore this is contrary to the EU 1998 Aarhus Convention Directives, Directive 2003/4/EC and Directive 2003/35/EC which declare the right of the public to be informed on environmental impact and to be provided with the opportunity to make comments and have access to justice.

e) The Quantitative Risk Assessment is based on “Land-use Planning Advice for Kilkenny County Council in relation to Grassland Fertilisers (Kilkenny) Ltd at Palmerstown”. This is completely inadequate for a risk assessment of an LNG installation because the chemicals are different and the manner in which they leak is completely unique to LNG because it is at such a low temperature (-160 degrees).

f) One obvious and questionable claim in the QRA undertaken by the developer can be seen where only one of the four LNG storage tanks is covered by the inner zone contour in Figure 6.2 of the QRA on page 59. This means (using the criteria of table 5.1 on page 49) that it would be acceptable to build residential houses up against the remaining 3 LNG storage tanks even if the first tank leaks. This does not make sense and can only lead to the conclusion that the contours have been unrealistically tightened so as not to encompass current residential areas. We therefore object to this QRA which has not been made available to the general public.

h) We request more time from An Bord Pleanála to get our own independent technical assessment of the QRA undertaken by the developer because it has only been made available to us a very short time ago and is still not available to the general public.

i) Misapplication of Risk Assessment: Recently it has become popular on the international front to apply risk assessment to justify otherwise poor decisions not necessarily in the best interest of the public or the country. RA can be a very unwise tool to force the will of a powerful few on the uninformed public. One factor signalling some very poor applications of RA is the comparison to other risks that in a technical reality are not really related, especially as to consequences. Some consequences are so great that no matter what the probability the risks cannot be justified, especially if economic benefit to the decision makers is actually driving the poor application of this tool. A reality test in such poor applications is to ask what the real liability of the organisation is, if their risk call (aka their key technical “facts” assumptions) should prove wrong. Are their liabilities, both economic and criminal, for reckless decisions shall we say, limited by layers of attorneys citing loopholes, are the real assets moved off shore or to another country? What are the real corporate risks here if the RA is incomplete, inaccurate, or poor?

SITE SELECTION

8. SIGTTO clearly state criteria which must be followed in “Site Selection and Design for LNG Ports and Jetties”. These include (page 12):
 - Find a location suitably distant from centres of population

- Provide a safe position, removed from other traffic and wave action. For an “LNG carrier of about 135,000 m3 capacity, the waves likely to have such effects are those approaching from directly ahead or astern, having significant heights exceeding 1.5 metres and periods greater than 9 seconds” (page 7). The EIS submitted by Shannon LNG proposes (volume 1 page 3) to design a jetty capable of taking ships with a capacity of up to 265,000 m3 of LNG so the port criteria must satisfy this capacity of ship

These criteria seem to be unobtainable given the proximity of the villages of Ballylongford, Tarbert and Killimer (all 3 miles from the proposed gas terminal) and the huge amount of ships using the estuary already. Also, windage has to be accounted for because the specific gravity of LNG is a lot lower than oil and so the ship runs a lot higher on the water.

MOVING SAFETY ZONE

9. SIGTTO clearly state in “Site Selection and “LNG Operations in Port Areas: Essential best practices for the industry”, that it is sound practice to establish a cordon sanitaire or exclusion zone around a transiting gas tanker. “Where traffic is proceeding in the same direction as the tanker the zone may extend some 1 to 2 miles ahead of the gas carrier, a distance determined by the distance required to bring the following gas carrier safely to a stop. Traffic following the gas carrier should be excluded for a similar distance, allowing scope for the gas carrier to slow down to manoeuvre without it being impeded by the approach of following ships. In general, traffic should not cross closer than 1.5 miles ahead or 0.5 miles astern of a gas carrier” (page 15).

a) These conditions have therefore an effect on the traffic moving through the estuary towards Tarbert, Moneypoint, Foynes, Aughinish and Limerick, especially since Shannon LNG have plans for 125 ships a year coming to the gas terminal

b) This also has an effect on the Tarbert-Killimer car ferry.

c) This also has an effect on all leisure boats using the estuary, including dolphin watchers in this SAC area of the Lower Shannon and the boats from Saleen Pier.

d) Furthermore, the exclusion zone will prevent other sea-based industries setting up in the land bank as they will not be able to access the site when LNG tankers are at port.

ENVIRONMENTAL POLLUTION: SEAWATER USE POLLUTING THE SHANNON ESTUARY:

10. Intermediate Fluid Vaporizer (IFV) technology using the Shannon seawater as a heat source is the intended method by which Shannon LNG will convert the liquid LNG to gas. The EIS (volume 2 page 63, section 3.6.3.2), notes that up to 5 pumps will be used to circulate up to 20,000 cubic metres of water per hour. This equates to 4.4 million gallons per hour. To prevent marine growth (bio-fouling) within the system, sodium hypochlorite (bleach, an oxidiser) will be added to the seawater on a continual basis. As it exchanges heat with the glycol solution, the seawater will be cooled such that at discharge it is cooler than the ambient seawater.

The withdrawal and discharge of huge volumes of seawater (over 100 million gallons on a daily basis) would affect marine life by killing ichthyoplankton unable to escape

from the intake area (see attachment 4) . Further, the discharge of cooled and chemically-treated seawater would also affect marine life and water quality. For this reason, open-loop technology (and the Shannon LNG proposal is still an open-loop seawater technology even if it is using a closed-loop glycol system) has been successfully opposed continuously by government bodies due to its negative environmental impact. This is because IFV technology poses the same environmental problems faced by Open Rack Vaporiser (ORV) technology which also relies on huge quantities of seawater (see attachment 7, section 3.5.2.3). It must be remembered that the Lower Shannon waters (including the 25 acres offshore of the proposed LNG site) are in a Special Area of Conservation (SAC) designated area (see attachment 6) – therefore constituting waters that must be protected under the EU habitats directive.

The waters of the Shannon can be protected using an alternative heating solution e.g. a **closed-loop vaporiser** but this will prove more costly for Shannon LNG.

Concern also has to be expressed on the effect of the additional surface water runoff from the site and water supply to and from the proposed new pond (EIS volume 1 page 21) as well as the chemically-modified cooler seawater discharged from the vaporising process on the wetland habitats to the north-west of the site.

THE EU HABITATS DIRECTIVE

11. The Bord is bound to uphold the provisions of Art. 6 of the Habitats Directive and of the Irish implementing measures. It is plain that the provisions of Art 6(3) apply to this development. It is also plain that the development will by definition have negative implications for the lower Shannon Estuary candidate SAC. The Bord therefore has no basis for finding that the development will in the words of the Directive, “ not adversely affect the integrity of the site”.

The applicant itself does not purport to claim that the development comes within the provisions of Art. 6 (4) of the Directive and in our view they are quite correct not to attempt to make any such claim.

It is therefore not open to the Bord to grant permission.

We also rely on the protection afforded under European and Domestic law to the Ballylongford Bay proposed Natural Heritage Area and the Shannon-Fergus Special Protection Area in submitting to the Bord that the impacts of the development also mandate the Bord to issue a refusal.

12. The ecological sensitivity of the area has been recognised in the Kerry County Development Plan (see appendix 22) in declaring both Ballylongford Bay and Tarbert Bay as areas of Ecological Importance. For this reason we object to any environmental damage to this area.
13. The Environmental Protection Agency, in its 2006 report on water quality in Ireland (see attachment 23) emphasised the need to have, under the Water Framework Directive (WFD)(2000/60/EC) all waters, both surface and groundwater in good or higher status by 2015. We therefore object that the use of the Shannon waters as proposed in this planning application directly ignore or obligations under the Water Framework Directive.

PROJECT SLICING

14. Shannon LNG is artificially cutting this LNG project into pieces for the purpose of winning legal approval. Through this process, known as “salami-slicing”, sections of this project will be assessed and permitted. The idea is that the less environmentally-questionable parts of the project are authorised and built first, making continued development of the project a virtual fait-accompli, even if the latter sections of the project seriously violate environmental regulations. This is contrary to, among others, article 2.1 of the EIA (Environmental Impact Assessment) directive, which requires that “projects” likely to have significant effect on the environment – not parts of projects – are subject to the assessment.

Shannon LNG has made only vague reference to the pipeline from the proposed gasification terminal to Foynes **even though this pipeline could also pose serious environmental and safety risks depending on the pressure of the gas in the pipeline.**

It has only made vague references to its plans for the rest of its site on the land bank. They suggest maybe a gas-fired power station which would, they say, “be the subject of a separate planning application and EIS” (EIS volume 1 page5).

Shannon LNG also states (EIS volume 1 page5) that electricity to be supplied via 110kv lines from the ESB network at Tarbert will also “be the subject of a separate planning application”.

Shannon LNG goes on to state (EIS volume 1 page5) that Kerry County Council will upgrade the coast road from Tarbert which “will also be the subject of a separate planning application”.

It is to be feared that, due to the necessary exclusion zone required for LNG tankers, the land bank will only be fit for other “dirty” projects, which, if assessed along with the LNG gasification terminal, would almost certainly be denied planning permission.

This piecemeal approach to the planning process is extremely questionable as it does not deal with the sustainable development of the area.

LIMITED GAS SUPPLY

15. The justification for the project being that the supply of gas to Ireland is not assured must be questioned and it cannot be assumed that the proposed gas terminal is of overriding national interest. Reference has been made to the threat from the Russian pipeline. It must be pointed out that
- A gas pipeline also exists from Norway to the UK (see attachment 8). After the start up of the Langeled pipeline from Norway’s Sleipner platform to the UK in the autumn of 2006, shockwaves were sent through the market. “History was made when over-the-counter prices fell to negative territory for the first time”.
 - LNG terminals in the rest of Europe provide an indirect source of gas through the European network.
 - Gas has been discovered off the coast of Ireland
 - Shannon LNG is giving no guarantees of supply whatsoever. It is assumed that the intention of the gas industry is to make LNG a commodity product where more gasification terminals increases liquidity in the market and the LNG tankers can change routes more easily if the spot price of LNG changes. From the Poten & Partners report (see attachment 8) Ofgem, the UK regulator, had to invoke use-it-or-lose-it provisions to stop BP and Sonatrach from diverting cargoes elsewhere to take advantage of price movements.

- Shannon LNG do not want the same types of provisions as can clearly be seen from the pre-planning consultation documents from An Bord Pleanála.
- Gas is still a fossil fuel and when the whole supply chain of LNG is considered from the extraction, liquefaction, transport and gasification stages it is thought that LNG is no cleaner than coal. This contradicts our national commitments signed up to in the Kyoto Protocol

LNG: UK Gas Sellers Face Looming Supply Glut

16. Poten and Partners have issued a report on their website of a looming glut of LNG in the UK market which should guarantee the supply of LNG to Ireland (see attachment 8). They state that a rapidly expanding import infrastructure in the UK threatens to outstrip requirement by a large margin. “In addition to Langed, operation of the BBL and Tampen pipelines from the Netherlands and Norway will add 100 Bcm/y of new import capacity by 2010, equivalent to half the country’s demand.” The report also claims that “LNG import capacity will grow ten-fold during the same period”. “This is thanks to the new dockside regasification facility at Teesside in northeast England and two grassroots terminals under construction at Milford Haven in Wales, known as Dragon LNG and South Hook”, they add.
17. The Government White Paper, “Delivering a Sustainable Energy Solution for Ireland”, the Energy Policy Framework from 2007 -2020 (see attachment 9 section 3.3.2), states that in implementing strategic goal 2 (ensuring the security and reliability of gas supplies):

“The UK is now the source of some 87% of our natural gas and the UK’s own demand for imports is growing strongly. Norway will remain a significant supplier of gas to UK in the medium term. Ireland’s location in Europe from the view-point of gas supply sources is becoming less peripheral. In the last 12 months the UK has achieved a significant increase in gas import capacity through accelerated infrastructure developments with resultant benefits for Ireland. Both pipeline and LNG capacity has increased significantly. These include the Langed pipeline from Norway, the new pipeline from the Netherlands and new LNG terminals at Milford Haven. Further expansion of LNG capacity and gas interconnection is underway in the UK and Europe which will benefit Ireland in terms of security of wholesale gas supplies within this regional market... the prognosis for gas supplies is relatively secure as a result”.

The White paper goes on to state:

“We will put in place an all-island strategy by 2008 for gas storage and LNG facilities in light of the outcome of the all-island study”. This would represent an independent strategic view of LNG facilities, rather than depending on the non-independent representation by Shannon LNG. “He who pays the piper, calls the tune”.

Therefore, while awaiting the government’s all-island strategy for LNG facilities and while noting that “the prognosis for gas supplies is relatively secure”, we strongly bring to An Bord Pleanála’s attention that there is no over-riding urgent, strategic imperative or immediate need for an LNG terminal in Tarbert and that therefore, the “National Interest” cannot be used as an excuse to prime over and ignore the dangers being posed to the safety of the nearby populations in Clare and Kerry and the environmental damage that will be suffered on the SAC waters of the Lower Shannon which must be protected under the EU Habitats Directive if the development is given the go-ahead.

ALTERNATIVE LOCATION FOR AN LNG TERMINAL

18. The Second International Conference of Renewable Energy in Maritime Island Climates held in University College Cork in April 2006 suggested that Cork, close to the Kinsale Gas Field, would be an ideal site for an LNG terminal (see attachment 10):

“In the longer term it is important to fully explore and maximize geographical diversification in gas supply. One potentially promising option is through LNG (liquid natural gas) trade. This would provide give possibility to transfer gas from remote countries (Algeria, Nigeria, Malaysia, Trinidad and Tobago, United Arab Emirates and Qatar), without using pipelines, which are not economically viable. An LNG terminal in Ireland could be constructed near Kinsale Gas Field, connected to the gas platform, thus the existing gas pipeline from the gas field to Inch can be used. In this way, LNG could be used provide at least a quarter of national gas demand or be sufficient entirely for the Cork area. LNG can also be used as seasonable gas storage at the LNG plant (liquefaction and storage during warm season and vaporisation and injection into local pipelines during cold period). This service can increase the volume of storage in Ireland, which is currently limited to what is contained within the pipelines and remaining reserves at the Kinsale Gas Field.”

19. The Second International Conference of Renewable Energy in Maritime Island Climates held in University College Cork in April 2006 also noted (see attachment 10) that:

“Germany has already started the construction of a gas pipeline from St-Petersburg to Germany under the Baltic Sea, avoiding borders. This is expected to provide more reliable supply from Russia to the West by 2010”.

20. In 2006, a natural gas storage licence was granted to Marathon Oil Ireland Limited at parts of the Kinsale facilities (including the Southwest Kinsale Reservoir and wells, offshore platforms, pipelines, compression, processing plant and the shore terminal) used from time to time to inject, store and withdraw natural gas (see attachment 21, schedule 1 page 19) . This would seem to suggest that the Kinsale Reservoir would be a more ideal site for strategic gas storage than Kilcolgan.

PUBLIC ACCESS TO INFORMATION, PUBLIC PARTICIPATION AND ENVIRONMENTAL IMPACT ASSESSMENT

21. Shannon LNG submitted a risk assessment to the Health and Safety Authority on the same day it submitted the planning application to An Bord Pleanála. The HSA will make a recommendation to An Bord Pleanála based on its own examination of the risk assessment.

However, the risk assessment has never been made available to the general public and neither has it been submitted to An Bord Pleanála. This means that the public will not have access to vital environmental information (e.g. the environmental impact of an LNG leak) before the deadline of November 16th and people who would make a submission based on the risk assessment are now being illegally deprived of participation in the planning process. This is contrary to Article 6 of the EU EIA directive.

This issue can be solved by an order that the HSA or Shannon LNG produces both the Risk Assessment submitted and the HSA assessment to an Bord Pleanála and that this information be disclosed to the general public. **Further submissions will**

have to be allowed from the general public – not only oral (for example in an oral hearing) but more importantly in written submissions. This is to take into consideration people who would be unable to speak at an oral hearing but who would have serious concerns they could put in writing. These written submissions will therefore have to be allowed from all members of the public who have not made a submission before November 16th in order to maintain transparency in the planning process.

We object that the division of responsibility for the Environmental Impact Assessment across a number of bodies including, but not limited to, An Bord Pleanála and the EPA is not clearly defined because the general public does not have all the environmental impacts before planning permission is applied for in order to participate fully in the planning process.

We as members of the public concerned have been given 7 weeks to prepare this submission to the bord. In that time we have faced a literally impossible task. We have been denied access to critical documentation including the materials submitted to the HSA and the HSA's own documents and reports on that material. Yet that material and the HSA analysis of it will without doubt form the basis of the HSA's opinion and the Bord in turn will rely on that opinion in the context of the Seveso II Directive. By the time we are eventually able to access the material to examine it further the Bord may have already dealt with the application on an erroneous assumption about the contaminants in the LNG. The Bord will have closed the door to further submissions from us. That is a clear example of one of the ways in which we are being shut out from meaningful participation in the process in flagrant breach of our rights under Irish and European Law. Our rights in this regard are guaranteed by the provision of the European Convention on Human Rights as adopted and as further made binding on An Bord Pleanála by the European Convention on Human Rights Act 2003 as well as by the principles of natural justice and the obligation on the decision makers including the Bord to apply fair procedures. There are several other aspects which are in breach of our rights including:

- a) The complete inequality of arms between us and the applicant. This is accentuated by the ability of the applicant to engage in pre-application consultations with the Bord so that it can be advised on how to present the application. The Bord has concluded, with no public input, that the application is one fit to be dealt with as Strategic Infrastructure and has literally pre-judged that vital issue. That in turn puts the Bord in a position of objective Bias when it comes to assessing our contention that the application is no such thing and should not be considered as such.
- b) The Applicants have been granted ample time to liaise privately with the Bord, to compile their material, to liaise with other Statutory bodies and to finalise this application. It has done so over a period in excess of 12 months. By contrast the local residents and other members of the public have been given no access to the statutory decision makers and instead are expected to convey our concerns in one fell swoop within 42 days of being granted sight of some, but not all, of the necessary documentation. This is fundamentally unjust.

QRA NOT DOWNLOADABLE

22. In a public meeting held by Shannon LNG on October 29th 2007, it was stated that the QRA would be available to the general public over the Shannon lng website.

However, this has never been downloadable and has therefore never been available to the general public. This was reported by Catriona Griffin to An Bord Pleanála and was noted by the Bord.

BUILDINGS TO BE DEMOLISHED

23. We object to old buildings being demolished as they represent a history of all the people that lived there over the centuries. The old stone buildings also represent our national heritage as they are built in the style of the region. As these houses are also used by bats, we object that the homes of the bats will be destroyed, contrary to the Wildlife Act 1976/2000 and the EU Habitats Directive.

RESIDENTIAL AMENITY

24. We object to the detrimental affect of the proposed development on the lives of the nearby residents and general public.
- i. The Environmental Impact Statement anticipates (EIS volume 1 page 17) that construction work will take up to 4 years
 - ii. The Environmental Impact Statement anticipates (EIS volume 1 page 17) that construction activities will require 24-hour working at the site.
 - iii. Added to this are the enormous changes to the visual landscape proposed (EIS volume 1 page 11).
 - iv. The noise and vibration impacts from construction traffic and blasting (EIS volume 1 page 17 and 18) are expected to be within the EPA limits. However, this does not take account of the fact that this area currently has hardly any noise whatsoever as it is on a lonely coastal country road and that the changed level of noise over many years is unacceptable.
 - v. In addition, Ballylongford village is not designed to take the huge increase in construction traffic expected.
 - vi. Trucks will come from Tarbert to the site but workers cannot be prevented from approaching the site from Ballylongford and no upgrade of the road between Kilcolgan and Ballylongford is proposed. This very winding road is therefore going to prove to be a death trap for the many people that currently walk on this road as a leisure activity.
 - vii. We are afraid that children might cut themselves on the barbed wire fencing proposed around the site.
 - viii. We object to the storage tanks proposed at 50 metres height and want them put underground on visual impact and safety grounds
 - ix. We object to the blight on the landscape from the water.
 - x. Tourists visiting the County of Kerry after crossing over the Shannon on the Ferry from Killimer to Shannon will not want to pass a dangerous industrial zone as proposed and this will have a hugely negative impact on the tourism sector in the north Kerry coastal regions beyond Ballylongford (Asdee, Beale, Ballybunnion). Furthermore, the site will not be in keeping with the county's reputation as one of outstanding beauty and will destroy our image.
 - xi. The environmental damage to the water caused by 100 million gallons of cooled, chlorinated water being daily discharged into the estuary will have a negative impact on the oyster farming on Carrig Island at the other side of Ballylongford Bay as well as the reputation of Ballylongford as it hosts the Ballylongford Oyster Festival every year (see attachment 18).
 - xii. The residents in the area surrounding this proposed development will have to live with the constant fear that an accident may happen at any time and this will be a constant source of worry and fear, no matter how long the terminal works without an accident. This is unfair to burden an innocent population with this threat and residual risk.

- xiii. The EIS does not include the 2.9 metre barbed wire fencing in the photo montages and this is giving a misleading image of the full visual impact of the proposed development
- xiv. The EIS does not include the proposed gas power station in the photo montage and this is also giving an extremely misleading image of the full visual impact of the proposed development.
- xv. We object that the photo montages in the EIS do not represent the true size of the tanks and ask that this be confirmed independently.
- xvi. We object that the huge construction traffic will effect the safety of the children on the school bus routes

RIGHT OF WAY

- 25. The EIS (volume 2 section 15.5.2) states that the right-of-way on the farm track at the western boundary of the LNG terminal site used by anglers to access the shore “will not be accessible to anglers when the LNG terminal is operational”. We object to this.
- 26. The EIS (volume 2 section 16.14) claims that there are no registered rights of way or wayleaves on the site. We object to this because the site has always been used to access the shore for swimming, for angling etc by all the Kilcolgan residents, and to access the site owned by Stevie Lynch and John O’Connor of Lislaughtin.

HESS LNG’s OTHER LNG TERMINAL REFUSED PERMISSION IN THE USA

- 27. The Weaver’s Cove site (see <http://www.weaverscove.com/aboutus.html>)describes Hess LNG as follows:

“Weaver’s Cove Energy, LLC, is owned by Hess LNG, LLC, which is a joint venture owned equally by Poten & Partners and Amerada Hess Corporation. A team of professionals that are among the most experienced and reputable executives in the global LNG and energy industry manages Weaver’s Cove Energy. The project team members have decades of experience in the design, development and operation of large energy projects around the world, as well as right here in Massachusetts.”

One newspaper article described it as follows:

“The river that runs past a proposed liquefied natural gas terminal in Fall River isn't safe for frequent traffic by massive LNG tankers, the Coast Guard ruled Wednesday in what could be a fatal blow to the controversial project (see attachment 11)”

And another paper said:

“BOSTON --A proposed liquefied natural gas terminal in Fall River may have been dealt a fatal blow.

The Coast Guard has ruled the river approaching the Weavers Cove Energy project is unsafe for navigation by massive LNG tankers.

The decision affirms concerns the Coast Guard expressed last year. The agency has since done an extensive review of the project.

A major problem is the relatively short distance between two bridges on the Taunton River. The Coast Guard found the safety risks of the 700 foot long, 80 foot wide tankers navigating the 1,100 foot gap were too great.

A Coast Guard spokesman says the ruling "kills the project, as proposed."

Weavers Cove officials did not immediately return calls for comment on the ruling” (see attachment 12 and 13).

The real lesson to be learned from the debacle at Weaver's Cove is that Hess LNG were stopped from building an LNG terminal on safety grounds even though they claimed that what they were proposing to do was safe. Our interpretation of this is that, no matter what the obstacle, Hess LNG will claim that they can make it work and ignore their own standards of Best Practice and put people's lives at risk in order to "clinch the deal". This further proves that Hess LNG is not capable of self-regulation and the independence of their own risk and environmental assessments have now to be seriously questioned. Furthermore, the increase in LNG traffic all over the world will only increase the risk of an accident and this only accentuates the need for the implementation of the strictest safety standards. We therefore implore An Bord Pleanála to refuse planning on safety grounds.

ACCOUNTABILITY

28. Shannon LNG is described as a wholly-owned subsidiary of Hess LNG Limited in the Environmental Impact Statement submitted by Shannon LNG to An Bord Pleanála (Volume 1 page 1). However, it has not been pointed out to An Bord Pleanála that Hess LNG is an offshore company incorporated in the Cayman Islands (see attachments 15 and 16). In the event of an environmental disaster at the plant Shannon LNG would be liable for the costs of any loss to property and human life. However, Shannon LNG has no assets of note. This can lead to problems in litigation where cases can go on for decades as attempts are made in the courts to apportion blame and liability. Companies can deny liability by creating shell companies in different jurisdictions, where ownership of the land is shared among some companies and ownership of the operations is shared out among other companies – all in different jurisdictions with different litigation laws.

Hess Corporation itself has never proposed that it could accept from the outset all responsibility for any environmental or human losses at the site for which Shannon LNG itself (or any other related companies) could be held liable as if it still owned the site and operations and that this liability would not be given away or sold without the express permission of the local planning authority in Ireland (Kerry County Council). This would have had the added advantage of creating an incentive for Shannon LNG to maintain the highest environmental and safety standards.

However, we object to the fact that an offshore company controls the private company that is applying for planning permission to construct this dangerous LNG terminal in Tarbert.

LNG CONTRIBUTING TO GLOBAL WARMING

29. In its report on LNG (see attachment 17), Greenpeace found that the use of natural gas that has been liquefied and transferred across the Pacific reduces the difference between natural gas power plant CO2 emissions and coal power plant emissions by nearly half. However, it also found that the development of LNG terminals would open up nearly limitless quantities of natural gas to the energy markets and that this shift threatens to turn natural gas, previously viewed as a "transitional" fuel, into a permanent source of global warming gases. This surely goes against the spirit of the Kyoto Protocol and we therefore ask An Bord Pleanála to note this and refuse planning permission for the project. Furthermore, this trend towards an increased dependence on LNG increases reliance on environmentally destructive fossil fuels and significantly delays the possibility of moving towards renewable energy sources by creating a costly infrastructure for LNG.

Furthermore, the idea of building a Gas Power station on the site (EIS volume 1, page 5) will increase the dependency on LNG as a permanent fuel rather than a transitional fuel and we object to this result.

DISAGREEMENT AMONG EXPERTS ON THE DANGERS OF LNG

30. A report for the US Congress was undertaken by the United States Government Accountability Office (see attachment 14) with advice from 19 of the world's top international LNG experts. The startling findings from this report was that even they seem unable to agree, hence the reports conclusion that the US DOE should carry out further tests on spills of LNG. We therefore also feel that due to the uncertainty in judging the risk to people's safety, An Bord Pleanála should apply prudence and rule against this planning application.
31. In The GAO Report for Congress (see attachment 14) the section on Cascading Tank failure is illuminating as it states that the worst case scenario is a small hole in an LNG carrier's containment; this is because the LNG Pool Fire will last longer close to the ship; so giving more time to heat the adjacent tank. A big hole allows the LNG to empty quickly from the tank in question so limiting the time any fire has to heat the adjacent tank. For this danger posed to the nearby residents we ask once again that An Bord Pleanála should apply prudence and rule against this planning application.

HOUSES NOT DISPLAYED ON SITE MAP

32. On the site map made available to the public, there are 6 houses missing – namely those of Raymond O'Mahony, Adam Kearney, Geraldine Carmody, Mrs. Kathleen Finnucane and two other houses belonging to the Finnucane family. We object that this is distorting the number of homes immediately adjacent to the site and question if this is also distorting the QRA.

NO BENEFIT TO KERRY

33. There is no plan to send any of the gas imported to Kerry. The only monetary benefit to Kerry shall be the rates that will be charged to the terminal and we object that this should influence the submission from Kerry County Council.

COMMUNITY ENGAGEMENT IN PLANNING

34. The final Report from the APaNGO project entitled 'community engagement in planning exploring the way forward' (see attachment 20) was launched at the international APaNGO closing conference in Brussels at the end of October 2007. The APaNGO project is one of the first studies of community engagement and involvement at the European level, covering findings from the seven Member States in North West Europe (Belgium, France, Germany, Luxembourg, the Netherlands, the Republic of Ireland, and the UK). It noted that the "legitimacy of any planning decision will vitally depend on the quality of democratic input to the process; without that input, decision-making itself will be discredited.

For this reason, and from the Aarhus Convention Directives on the right of the public to be informed on the environmental impact and being provided with the opportunity to make timely comments and have affordable access to justice, we therefore object that we do not have the financial means to challenge the EIS and QRA presented by the developer who has access to unlimited resources through Hess Corporation. This EIS and QRA are not independent. We need funds to challenge this with our own safety and environmental experts and therefore request that An Bord Pleanála puts those funds at our disposal in order to maintain transparency and equality in the planning process, given that this is for a complex chemical installation in a SEVESO II site.

QUESTIONABLE REZONING BY KERRY COUNTY COUNCIL

35. We object that the development is proposed on a green field site – even if it has recently been zoned industrial (EIS volume 2, section 4.6.3). In march 2007, the LNG site was rezoned from “Rural General” to Industrial (see attachment 29)

“The stated purpose of the variation was as follows:

The purpose of the variation is to facilitate consideration of suitable development of these lands in accordance with the provisions of section 5.2.9 of the Kerry County Development Plan 2003-2009 which states: ‘lands have been identified at Ballylongford/Tarbert as suitable for development as a premier deep-water port and for major industrial development and employment creation’. The adoption of this variation gives effect to objective ECO 5-5 of the Kerry County Development Plan 2003-2009 which states: ‘It is an objective of Kerry County Council to identify lands in key strategic locations that are particularly suitable for development that may be required by specific sectors. Land in such locations will form part of a strategic reserve that will be protected from inappropriate development that would prejudice its long-term development for these uses.’”

- a) If the LNG terminal goes ahead then the landbank will not be a deep-water port as all other ships will be forbidden and unable to use the port.
- b) The creation of 50 long-term jobs does not constitute “major employment creation”.
- c) The LNG terminal is in actual fact a hazardous chemicals installation, defined as the most dangerous of sites in EU legislation – a Seveso II site. This does not fall under the type of installation to be considered for the rezoned site because if it was the intention of Kerry County Development Plan to include hazardous sites within the landbank then Kerry County Council would never have given planning permission for the new houses currently being built (such as that of Jayne Kearney) less than 900 metres from the LNG tanks. Any new houses built after the LNG terminal is constructed would constitute “inappropriate development” which means that hazardous sites were never to be considered as appropriate development within the landbank.
- d) This Seveso II site will sterilise the remainder of the site which means that the aim in the Kerry County Development Plan of “major industrial development and employment creation” cannot be fulfilled.
- e) The County Manager stated that sufficient natural amenity lands had been reserved to the west of the site which included a walking route to Carrig Island. However, Carrig Island is at the other side of Ballylongford Bay and takes several miles by car to reach by driving through Ballylongford.
- f) The County Manager went on to state that “the impact of development on the residential amenity of houses in the vicinity of zoned industrial land will be dealt with at the planning stage”. This clearly shows that the site is not intended for a SEVESO II development.
- g) More importantly Clare County Council objected to the rezoning on the grounds that:

“the proposed rezoning is likely to have a significant impact on the future development of the region, and will have a direct impact on the planned objectives for the Mid West Regional guidelines for the Shannon Estuary and in particular the Planning, Economic and Service Infrastructural development objectives for zone 5 of the plan. Any industrial development including the construction of a deepwater harbour will have a major impact on both the visual and ecological amenities of the area, and potentially on the Lower

Shannon Estuarine Environment, including the foreshore of County Clare. Clare County Council would like an appraisal of any SEA investigation which may have been undertaken in respect of the proposed variation". The Kerry County Manager replied: "Any future application of these lands will be subject to an Environmental Impact Assessment. This process will ensure that any proposals will take into account impacts on the visual and ecological amenities of the area. A copy of the SEA screening report for the proposed variation will be forwarded to Clare County Council."

This is reprehensible. **There is no evidence of an SEA having been undertaken** as required for a variation to a development plan under Statutory Instrument No 436 of 2004 Article 7 section 13K and article 12 schedule 2A of the same Statutory Instrument (<http://www.irishstatutebook.ie/2004/en/si/0436.html#article12>). Without any information in the public domain regarding the scoping or the actual execution of an SEA (see attachment 32), this rezoning is fundamentally unsound and invalid. Clare County Council does not even know that this is a SEVESO II development. This rezoning process is also being brought to the attention of the relevant authorities as we object that the variation and rezoning of this site has been undertaken in a highly questionable and indeed invalid manner. We therefore object to the planning application because we maintain that this land is not zoned industrial.

These points mean that An Bord Pleanála should rule that the proposed development does not conform to the Kerry County Development Plan for the site, nor to the Planning and Development Act and should therefore be refused planning permission.

OTHER ISSUES

36. We object to any possible movement by road of LNG, due to the dangers and want this to be confirmed by An Bord Pleanála.
37. We need An Bord Pleanála to rule clearly on the use that may be made of the rest of the landbank if planning permission is given to the developer. We object that the rest of the landbank will be sterilised. It must be remembered that if the Bord allows other installations be built on the site near the gas terminal then they will have an influence on the risk of an accident at the regasification terminal. A clear ruling on this matter must be made.
38. We need An Bord Pleanála to rule clearly on how close residential property may be constructed to the site. We object that people will not be allowed to build on their own property close to the site due to the dangers.
39. We need An Bord Pleanála to rule clearly on the exclusion zone it recommends for boat users on the Shannon Estuary and object that use of the Shannon will be hindered by LNG tankers.
40. We object that most of the statutory bodies informed of the planning application will not have time to make detailed submissions to An Bord Pleanála due to the minimum time scale of 6 weeks from the date of planning application. This is such a serious installation that considered opinions cannot be given in this short timescale.
41. Under Seveso II regulations, we insist that An Bord Pleanála, if it decides to accord Planning permission to the developer, gives a detailed ruling on the type of

emergency plan to be put in place, both onsite and offsite, and insist on the implementation of an early-warning system to all residents within 12.4 kilometers, including (but not limited to) a form of public siren and information to be given to the same residents on how to react to this siren.

42. The Tarbert Development Association and The Ballylongford Development Association do not speak for the residents surrounding the Kilcolgan site and we object to any attempt to claim anything to the contrary as this does not represent local consultation as far as we are concerned.
43. Morgan Heaphy, Glencullare, asked Shannon LNG to elaborate on the exclusion zone in a written comment on one of the information days (see EIS Volume 4 , Appendix 1F) and this has never been answered in any format (other than the words “limited exclusion zone” (EIS volume 4 appendix 3c)) and therefore this does not represent consultation with the nearby residents. We object that the developer has always maintained that the site is safe and has kept such a low profile in discussing safety issues that the general public has been completely unaware of the issues in the euphoria of having new industry and jobs coming to the area. This is completely against the spirit of the planning process and we object to this serious misrepresentation of the installation to our detriment and the developer’s economic advantage.
44. We object to the application of the Strategic Infrastructure Act 2006 as it applies to this application as we are extremely worried about the possibility of “agency capture”. By this, we mean that we are extremely worried that An Bord Pleanála may inadvertently become compromised by having too close an interaction with the developer during the decision making process. We expect An Bord Pleanála to maintain a professional distance from the developer and to inform us of all negotiations it has with the developer and to give us a right of reply to all correspondence between the developer and the Board. In the interest of public safety in this Seveso II development we require that all new information be disclosed to the public and that the public be allowed sufficient time to analyse the data and make further submissions, both written and oral.
45. A report on the LNG blast in Algeria (see attachement 24) mentions the contaminant gases that Lng is made up of. Note that when HSE ,Sandia and other regulators do tests with LNG, it is with 100% pure Methane. We object that the level of contaminant gases to be shipped by Shannon LNG have not been disclosed and request that An Bord Pleanála ask the developer to state the level of contaminant gases they expect to have in the LNG shipments and whether they will vary depending on the origin of the LNG in order that a QRA be undertaken and analysed with this information in mind:

“A 1980 Coast Guard study titled "LNG Research at China Lake," states that LNG imported into this country is often far from pure, and it reveals that vapour clouds made from "impure" LNG actually explode as readily as the highly volatile LPG. When natural gas is super-cooled and turned into a liquid, as much as 14 % of the total cargo shipped as LNG may actually be LPG or other hydrocarbon fuels, according to the Coast Guard report. Natural gas contains these other fuels when it is pumped from the ground. LNG containing these so-called "higher hydrocarbons" is known as "hot gas" and has a higher energy content than pure methane. The Coast Guard report reveals that vapour clouds of LNG containing at least 13.6 % of these other fuels can detonate just like pure propane gas. The agency

concluded in its report that this deserves "special consideration, as the commercial LNG being imported into the US East Coast has about 14 % higher hydrocarbons." “

46. Is the limited exclusion zone proposed by Shannon LNG around the LNG tankers taking into account the risk of an ignition source as well as the risk of a collision?
47. Lloyds Casualty Week dated September 16 2005 (see attachment 25, page 11/12) noted an LNG fire from a pipeline leak in Kalakama, Nigeria started a wild fire covering 27 square kilometres. We object that the developer has not included pipeline incidents in the QRA because the pipeline EIS has not even been completed. This shows the dangers in slicing a project into several separate projects for planning purposes.
48. What is the thermal flux that An Bord Pleanála would determine as acceptable? Is it 1.5 kw/m2.?
49. We object that the State does not determine the most suitable site in Ireland for an LNG terminal, rather than a biased private-sector company applying for planning permission.
50. We ask that An Bord Pleanála take account of the Buncefield Reports (<http://www.buncefieldinvestigation.gov.uk/index.htm>).
51. From speaking to people in Milford Haven it was noted:
 - a) Jobs increased initially but the unemployment rate increased when the jobs finished as some of the workers had settled down in the area
 - b) Rental costs were high during construction which made life more expensive for locals
 - c) Skilled labour (such as welders) were attracted away from local industry so some local business suffered as a result
 - d) There are other construction works on top of one of the tanks equivalent in size to a five-storey building. Will that be the same in Tarbert?
 - e) Dolphins used to be resident in the Haven but left and never came back
52. We object that this LNG terminal would increase or dependency on the Opec nations – contradicting Energy independence objectives (e.g. windfarms where we have best windspeeds in Europe)
53. We object that the permanent jobs to be created will not be for unskilled labour (see attachment 27), which means that it is likely that many will not be filled by locals.
54. We object that since the government is still giving licences for exploration that must mean more gas exists in the country
55. We want all archaeological sites protected (including the one near the jetty)
56. We object that the bird and sea life will be seriously impacted by the lights and the sounds
57. We object that the gas tanks will be visible from county Clare as that county will be expected to get all the disadvantages and none of the advantages (rates) from this development.

58. We object that we do not know if Shannon LNG has options to buy more land but need to know this as it would be an indication of their real intentions.
59. We object to the idea of dumping soil and stone from the site near to Scatterry Island.
60. The Climate Protection bill on the 3rd October was in the senate and it refers to a 3 % decrease per annum. Facilitating the importation and dependence on more fossil fuels like LNG goes against the spirit of the Climate Protection bill.
61. We object that an offshore location for a terminal would be safer than the onshore one proposed.
62. We object that the terminal could hit house prices. An article in the Kerryman newspaper dated October 17th 2007, page 5 predicts a 29% drop (see attachment 28).
63. No Material Safety Data Sheets (MSDS) have been supplied with the EIS and we object that these have not been provided. We ask that An Bord Pleanála obliges the developer to provide these and allow us sufficient time to analyse them.
64. While all chemistry is dangerous, we agree that it is also feasible if the hazards can be contained. However, we object to the real problem here which is one of scale. 4 tanks of LNG represent 2400 tanks of gas.
65. We object that the HAZOP study is not available to enable us and the general public participate fully in the planning process as required by the EU EIA Directive. We ask that An Bord Pleanála obliges the developer to put it at our disposition.

“A HazOp study identifies hazards and operability problems. The concept involves investigating how the plant might deviate from the design intent. If, in the process of identifying problems during a HazOp study, a solution becomes apparent, it is recorded as part of the HazOp result; however, care must be taken to avoid trying to find solutions which are not so apparent, because the prime objective for the HazOp is problem identification. Although the HazOp study was developed to supplement experience-based practices when a new design or technology is involved, its use has expanded to almost all phases of a plant's life. HazOp is based on the principle that several experts with different backgrounds can interact and identify more problems when working together than when working separately and combining their results. “

The risks we are especially interested in examining in closer detail include (but not limited to);

- a) Static electricity and how to control it.
 - b) Catastrophic damage in the pressurisation process.
 - c) Catastrophic damage at the stage where odours are added to the gas with mercaptans.
 - d) Catastrophic damage at the stage where the glycol reheats the LNG
66. We object that no trucks should be travelling to or from the site for 5 minutes before and after a ferry boat lands because it has been noticed that the existing road network in Tarbert cannot take ferryboat traffic as it is at the moment.
67. We object that the full height of the storage tanks was lied about. The EIS (volume 1 page 4) clearly states: “The tanks will be a low-profile design and will be

approximately 96m in diameter and approximately 50.5m high”. This is extremely misleading as this EIS volume 1 – the non-technical summary – was widely distributed to the general public. From the drawings submitted to An Bord Pleanála (see attachment 31) it can be clearly seen that only the top of the concrete is 50.5 metres in height; the top of the tank elevation is 60.5 metres and the top of the pressure relief valve vent stack elevation is 71.5 metres in height. This means that **the tanks are 40% higher than stated** in the non-technical summary. This is highly misleading to the general public and therefore this has surely to lead, on its own, to this application being declared invalid. To add to that, Figure 3.14 (EIS Volume 3 part a) states that the height of the dome of the LNG tank is 10 metres lower at 50.5 metres. Which is it?

68. A clear example of the misrepresentation on the safety and environmental risks of the proposed LNG terminal that has taken place can be seen in the following wording in the brochure that was distributed by Shannon LNG in May 2006 which lead the general public to trust and believe (and because of no statements to the contrary from any of the statutory bodies) that this project was completely safe until now: (see attachment 26 page 7)

“Could the tankers leak?

In the unlikely event that there is a release from a tanker, the LNG will evaporate. That means the liquid will warm up and change back into a gas. This gas would quickly dissipate because it is lighter than air. Because the LNG is not transported under pressure any leak would evaporate more slowly and cover a much smaller area than a pressurised gas such as propane or butane. Compared to petrol or home heating oil, LNG is far less flammable and will not pollute the environment if it spilled”

Will there be an environmental impact?

Once it is in operation, the plant would have very few impacts – LNG import terminals are quiet, there is no smell, no smoke, no steam, and no noise that can be heard beyond the site boundary”

Such reassurance must be capable of objective verification. That is impossible as matters stand with this application. In addition the public concerned, of which we form part, have a legal and human right to participate effectively in any such verification process. We are being very effectively shut out from that process at present in all but name.

This is one of the first significant applications to come before the Bord under the Strategic Infrastructure Act. How the Bord deals with it can be expected to set a bench mark for the future. We ask the Bord to refuse the application.

69. The Flight path of flights from Shannon Airport and the dangers they pose have not been assessed at all in the risk assessment. We object that this has not been done because of the potential of disasters occurring from plane crashes – accidental or otherwise as was apparent in the tragic 9-11 disaster in New York. It should also be noted that Hess Corporation is an American company and therefore represents a possible future target given the current political situation in the world.

FUNDING

70. Finally, we wish once more to flag the issue of requiring funding to be provided for our further participation if the process continues beyond this point. Funding would be essential to enable us to retain the necessary expert assistance in order to defend our personal, family, property, and public participation rights.

SIGTTO MEMBERS

71. SIGTTO members include (source <http://sigtto.re-invent.net/dnn/Members/tabid/70/Default.aspx>) : ABS Europe Ltd, Abu Dhabi Gas Industries Ltd, Abu Dhabi Gas Liquefaction Co Ltd, Adriatic LNG, Aegis Logistics Ltd, AES Andres, Allocean Ltd, Anglo-Eastern Ship Management (Singapore) PTE Ltd, Antwerp Gas Terminal N.V., Atlantic LNG Co. of Trinidad & Tobago, Bahia de Bizkaia Gas, S.L., Barber Ship Management AS, Bergesen Worldwide Gas ASA, BG Lng Services LLC, BGT Limited, BHP Billiton International Inc, Bibby Line Ltd, BP Group, Brunei LNG Sdn Bhd, Bureau Veritas, Calor Gas Limited, Carbofin Energia Trasporti S.p.A., Ceres Hellenic Shipping Enterprises Ltd, Chemikalien Seetransport GmbH, Cheniere LNG INC, Chevron Shipping Company LLC, China LNG Shipping (International) Company Ltd, Chinese Petroleum Corporation, Chubu Electric Power Co Inc, Chugoku Electric Power Co Inc, CLP Power Hong Kong Limited, Cometco Shipping Co, ConocoPhillips Marine, Depa Gas Corporation of Greece, Det Norske Veritas, Dominion Cove point LNG, Dorchester Maritime Ltd, Dorian (Hellas) S.A., Dragon LNG Ltd, Dynagas Ltd, Eagle Sun Company Ltd, ECO ELECTRICA, Egyptian LNG, Eitzen Gas A/S, El Paso Corporation, Empresa Naviera Elcano S.A., Energy Transportation Corporation, ESKOM Holdings Ltd, Excelerate Energy LP, Exmar N.V., Exxonmobil Development Company, Fleet Management Limited, Freeport LNG Development, L.P., Gaz de France, Gazocean Armement, Germanischer Lloyd AG, Golar LNG Limited, Grain LNG LTD, Guangdong Dapeng LNG Company Ltd, Hazira Port Private Limited, Hyundai Merchant Marine Co. Ltd, IINO Kaiun Kaisha Ltd, International Gas Transportation Co Ltd, Iwatani International Corporation, Kansai Electric Power Co Inc, Kawasaki Kisen Kaisha Ltd, Knutsen Oas Shipping, Korea Gas Corporation, Kuwait Oil Tanker Co S.A.K., Kyushu Electric Power Co Inc, Lauritzen Kosan A/S, Leif Höegh & Co ASA, Liquefied Natural Gas Limited, Lloyds Register, LNG Japan Corporation, Louis Dreyfus Armateurs S.N.C., Malaysia Int Shipping Corp Berhd, Malaysia LNG Sdn Bhd, Maran Gas Maritime Inc, Marine Service GmbH, Marubeni Corporation, Medway Ports, Milford Haven Port Authority, Mitsubishi Corporation, Mitsui & Co Ltd, Mitsui OSK Lines Ltd, Möller, A.P., Naftomar Shipping & Trading Co, National Gas Shipping Co. Ltd, Nigeria LNG Limited, NIPPON Oil Corporation, Norgas Carriers A/S, North Atlantic Pipeline Partners, L.P., Northern Marine Management Ltd, NYK Line (Nippon Yusen Kaisha), Oman Liquefied Natural Gas, Osaka Gas Co Ltd, OSG Ship Management Ltd, Pertamina Transportation LNG-JMG, Petredec Limited, Petrobras Transporte S.A. – Transpetro, Petronas Gas Berhad, Petronet LNG Limited, Phoenix Park Gas Processors LTD, Pronav Ship Management Inc, PT Arun NGL Co, PT Badak NGL Co, Qatar Gas Transport Company Limited, Qatar General Petroleum Corporation, Qatar Shipping Company Q.S.C., Qatargas Operating Company Limited, Ras Laffan Liquefied Gas Co. Ltd, Rompetrol Petrochemicals, Sakhalin Energy Investment Co Ltd, Santos Ltd, Saudi Arabian Oil Co (Saudi Aramco), Seariver Maritime Inc, Sempra Lng, Shell International Trading and Shipping Co Ltd, Shipping Corporation of India, Shizuoka Gas Co Ltd, Single Buoy Moorings Inc, SK Shipping, SNTM-HYPROC, South Hook LNG Terminal Co Ltd, Statoil A/S, Suez Global LNG Limited, Suez LNG NA LLC, Talisman Energy, Tamanneftegas, Teekay Shipping, Terminal de LNG de Altamira S. de R.L. de C.V., Texaco Angola Natural Gas Inc, The Bahrain Petroleum Co B.S.C., The Egyptian Operating Company (elng), Thome Ship Management Pte. Ltd, Toho Gas Co Ltd, Tohoku Electric Power Co Inc, Tokyo Electric Power Co Inc, Tokyo Gas Co Ltd, Total Indonesie, Total S.A., Trunkline LNG Company, LLC, Unicom Management Services, United Gas

Derivatives Company, V. Ships Limited, Varun Shipping Company Ltd, Weavers Cove Energy, Wesfarmers LPG Pty Ltd, Woodside Energy Ltd,

ATTACHMENTS

1. The Havens Report: From the submission by the “Public Utilities Commission of The State of California” to the “Federal Energy Regulatory Commission” on the proposed LNG facilities at the Port of Long Beach by “Sound Energy Solutions” Docket Nos. CP04-58-000 on October 4, 2005.
Internet reference:
[http://files.meetup.com/207586/Rigassificatori%20-%20onshore%20LNG%20California%20\(3%20miglia\).pdf](http://files.meetup.com/207586/Rigassificatori%20-%20onshore%20LNG%20California%20(3%20miglia).pdf)
2. “LNG Operations in Port Areas : Essential best practices for the industry” First Edition 2003, The Society of International Gas Tanker and Terminal Operators Ltd (SIGTTO) ISBN: 1 85609 256 9 Witherbys Publishing www.witherbys.com . or <http://sigtto.re-invent.net/dnn/Publications/tabid/62/Default.aspx> Price UK£ 45. Hard copy only.
3. “Site selection and Design for LNG Ports and Jetties – Information Paper No. 14. 1997, The Society of International Gas Tanker and Terminal Operators Ltd (SIGTTO) ISBN: 1 85609 129 5 Witherbys Publishing. www.witherbys.com or <http://sigtto.re-invent.net/dnn/Publications/tabid/62/Default.aspx> Price UK£ 25. Hard copy only.
4. “LNG in the Gulf of Mexico”, presentation by Jeff Rester of the “Gulf States Marine Fisheries Commission” http://www.seagrantfish.lsu.edu/pdfs/biloxi_07/JeffRester.pdf
The Gulf States Marine Fisheries Commission (GSMFC) is an organization of the five states (Texas, Louisiana, Mississippi, Alabama, and Florida), whose coastal waters are the Gulf of Mexico. This compact, authorised under Public Law 81-66, was signed by the representatives of the Governors of the five Gulf States on July 16, 1949, at Mobile, Alabama. It has as its principal objective the conservation, development, and full utilization of the fishery resources of the Gulf of Mexico, to provide food, employment, income, and recreation to the people of these United States.
To visit their homepage: <http://www.gsmfc.org/gsmfc.html>
5. Newspaper article on Fisheries agency expressing concern over Bienville LNG project, filed from Houston November 11th 2007
<http://www.energycurrent.com/index.php?id=3&storyid=5952>
6. “Lower River Shannon” Special Area of Conservation (SAC) Site Synopsis by the National Parks and Wildlife Service Internet Reference:
<http://www.npws.ie/en/media/Media,4177,en.pdf>
7. Draft Environmental Impact Statement for Bayou Casotte Energy, LLC's Casotte Landing LNG Project under CP05-420 et al. Accession Number: 20060519-4002 Section 3 Alternatives
http://elibrary.ferc.gov/idmws/file_list.asp?document_id=4405730%20
8. “LNG: UK Gas Sellers Face Looming Supply Glut” March 20, 2007, Poten & Partners Market Opinions. *This article appeared in Poten & Partners monthly*

*publication **LNG in World Markets** . Reference LNG and natural gas data is available at the **LNGAS Data/News Website** . Please go to www.poten.com/lngconsultingproducts.asp to sample these reports and order them http://www.poten.com/?URL=show_articles.asp?id=593&table=tMarket*

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11. Pre-planning Consultations by Shannon LNG

Schedule of Other Pre-application Consultations as required under Item 18.

Third Party	Date
Shannon Development	11 September 2007
Kerry County Council	23 June 2006, 20 October 2006, 14 December 2006, 13 August 2007
Clare County Council	13 June 2007
Limerick County Council	13 June 2007
National Parks and Wildlife Service (NPWS) of Department of Environment, Heritage and Local Government	24 January 2007, 27 February 2007, 19 June 2007
National Monuments Service (NMS) of Department of Environment, Heritage and Local Government	15 December 2006, 28 February 2007, 19 April 2007
Department of Communications, Marine and Natural Resources (DCMNR)	27 August 2007
Environment Protection Agency (EPA)	21 February 2007
Health & Safety Authority (HSA)	25 January 2007, 21 February 2007, 5 April 2007, 17 July 2007
An Garda Síochána	03 September 2007
Commission for Energy Regulation (CER)	11 January 2007, 21 August 2007
Bord Gáis Éireann (BGE)	18 October 2006, 13 December 2006, 15 May 2007, 23 August 2007
EirGrid	3 May 2007
Shannon Regional Fisheries Board (SRFB)	23 January 2007
Shannon Foynes Port Company (SFPC)	28 June 2006, 14 August 2007
Meetings with Steering Committee of the Ballylongford Enterprise Association and Tarbert Development Association	29 June 2006, 17 October 2006, 07 March 2007 and 14 August 2007
Information evening held in Ballylongford for public	3 April 2007
Information evening held in Tarbert for public	4 April 2007
Production of three newsletters to keep people informed of plans.	May, 2006, December 2006, and May 2007

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12. Shannon LNG Terminal EIS Vol 1 of 4 issue 1.

To see this document please click on

http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_1_of_4_Issue_1.pdf

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- 13. Application for Weather Station on a 10M. High mast with Security fencing by Shannon LNG at the site of the proposed LNG terminal in Kilcolgan**

Application for Weather Station on a 10M. High mast with Security fencing by Shannon LNG at the site of the proposed LNG terminal in Kilcolgan

http://www.kerrycoco.ie/ePlan/InternetEnquiry/rpt_ViewApplicDetails.asp?validFileNum=1&app_num_file=063428

Kerry County Council Planning Enquiry - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Back Forward Stop Home Search Favorites Media Print Mail Address Book

Address http://www.kerrycoco.ie/ePlan/InternetEnquiry/rpt_ViewApplicDetails.asp?validFileNum=1&app_num_file=063428 Go Links

Representations Submissions Further Information Agents Company Information Land Owner Motions

Site Location Environmental Impact **View Files (PDF)**

Please not files may be large and will take some time to download with a slow internet connection (e.g. 56k modem)

Planning Application: 063428

File Number: 06/3428	Planning Status: APPLICATION FINALISED
Application Type: PERMISSION	Decision Due Date: 12/11/2006
Received Date: 18/09/2006	Invalidated Date:
Validated Date: 18/09/2006	Further Info Received:
Further Info Requested:	Extend Date:
Withdrawn Date:	Appeal Date:
Decision Type: CONDITIONAL	Submissions By:
Leave To Appeal:	

Applicant Details

Applicant Name: SHANNON LNG LTD	
Applicant Address:	
Phone Number:	Fax Number:

Proposed Development

Development Description: ERECTION OF A WEATHER STATION ON A 10M HIGH MAST WITH SECURITY FENCING	
Development Address: RALAPPANE, CO KERRY	Location Key: RALAPPANE
Architect Name: R	Planner: Anita Murphy
Electoral Division: Knocknagoshel (Part Of)	Plan Enforcement #:
Social Housing Exempt:	Waste License Required: No
IPC License Required: No	Protected Structure #:
Protected Structure: No	

Comments

Significant Case Flag:	Comments:
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Application Fee

Fees Due: 80.00	Fees Received: 80.00
Fees Refunded:	Exempted Fee Flag:

Decision

Decision Date: 10/11/2006	Manager Order #:
Decision: CONDITIONAL	Number of Conditions: 4
Grant Date: 14/12/2006	Grant Mangers Order #:
Section 47 Apply?:	Part 5 Apply?:
Expiry Date: 13/12/2008	
Decision Description: ERECTION OF A WEATHER STATION ON A 10M HIGH MAST WITH SECURITY FENCING	

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14. Full application for weather station 063428

To view this document in full please click on
<http://docstore.kerrycoco.ie/planningfiles/063428.pdf>

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15. SemEuro Planning for Petroleum Storage facilities

Attachment 15: Communication from SemEuro concerning petroleum storage facilities near Shannon LNG site and SemEuro information at An Bord Pleanala

From: Spencer, John [mailto:jspencer@SEMGROUPLP.COM]
Sent: 21 November 2007 12:55
To: McElligott, John
Cc: Majors, Randy; Parker, Kieren
Subject: RE: PC0008 Case type: Pre-Application Consultation at An Bord Pleanala by SemEuro
Importance: High

Dear Mr McElligott,

Thank you for your note of last night which I have now had the opportunity to study.

SemEuro Ltd has several diverse operating divisions, one of which, SemEuro Supply Ltd, is the company of which I am Managing Director. A search on the internet for SemEuro will indeed direct you to me however in this instance I am not really the person you need to be in touch with as I am not at all familiar with the proposal you mention.

Our business developments are handled at a group rather than divisional level and therefore you would be much better served by communicating with them.

In the first instance you should contact the SemEuro Ltd President and COO, Randy Majors:

e-mail: rmajors@semgrouplp.com
Tel: +1 918 524 8186

Mr. Majors is based in Tulsa, Oklahoma, USA (there is a six hour time difference between Eire and Oklahoma) and is totally familiar with our project in Ireland. Please be warned that the US is about to embark on its annual Thanksgiving Day holiday (and long weekend) so there may be some delays in communications.

You may also contact Kieran Parker who is based in the UK although his knowledge may be less specific:

e-mail: kparker@semgrouplp.com
Tel: +44 797 152 5593

I have taken the liberty of redirecting your e-mail to them in any case, if you do not hear back from them or are unable to contact them feel free to let me know and I will try to track them down for you.

Yours sincerely

John Spencer
Managing Director
SemEuro Supply Ltd

-----Original Message-----

From: Darren Coombes [mailto:d.coombes@pleanala.ie]
Sent: 22 November 2007 12:14
To: McElligott, John
Subject: Re: PC0008 and PA0002 - what is the link

John,

To reply in short to your telephone query, the site currently being discussed at pre-consultation stage is proposed for an adjacent site to the Shannon LNG proposed development.

In relation to your request for information on pre-consultation meetings on PC0008, this is not a decided case and thus cannot be made available for public access. This is not available under the Freedom of Information Act.

The complete file will be available for public viewing once a decision has been made.

In relation to your other comments, I'm not in a position to respond, but would suggest that you put any such comments in writing to the Secretary of An Bord Pleanala at 64 Marlborough Street, Dublin 1.

I trust the above is of assistance.

Regards,

Darren Coombes

Subject: PC0008 and PA0002 - what is the link
Date sent: Thu, 22 Nov 2007 11:20:30 -0000
From: "McElligott, John"
<John.McElligott@cwmsg.cwplc.com>
To: <d.coombes@pleanala.ie>
Copies to: <bord@pleanala.ie>,
"Adam Kearney Associates" <info@akassociates.ie>,
<catrionagriffin068@eircom.net>,
<morganheaphy@eircom.net>,
<noelheaphyspar@eircom.net>

Kilcolgan Residents Association

c/o Johnny McElligott

Island View,

5 Convent Street,

Listowel,

County Kerry

safetybeforelng@hotmail.com

Tel: (087) 2804474

22nd November 2007

Re: PC0008: () Kerry County Council Petroleum storage installation and related marine facilities at Ballylongford, Co. Kerry. Case reference: PL08 .PC0008 Case type: Pre-Application Consultation Status: Case is due to be decided by 29-11-2007 EIS required: No SEMEuro (Michael Punch and Partners and Byrne O'Cleary)

Dear Darren,

Following our conversation a few minutes ago this is our position:

1. Kerry County Council councillors are due to vote on Monday November 26th 2007 on the position they are to take in their submission to An Bord Pleanala for the Shannon LNG proposal PA0002 at Kilcolgan (they have 10 weeks whereas we only had the minimum 6 weeks)
2. SemEuro are in the pre-application consultation stage for a petroleum storage facility as described above in PC0008
3. I contacted John Spencer, the managing director of SemEuro in Geneva on Wednesday and he referred me to Kieran Parker of the SemGroup in the UK. Kieran Parker just confirmed a few minutes ago over the phone that I should contact Shannon LNG if I have any questions and that he could not comment any further.

This now therefore means that this planning process is diving quickly into farcical proportions as the local authority of Kerry County Council does not even know about SemEuro and therefore Shannon LNG's true intentions and you do not even seem to know where SemEuro is actually building. People have been misleadingly lead to believe locally that SemEuro is intending to build on the Ballylongford to Asdee side of Ballylongford Bay but we are now coming quickly to the conclusion that SemEuro are actually applying for planning adjacent to the Shannon LNG site on the landbank. What does this say for top-tier Seveso 2 sites' exclusion zones on the SAC area of the Lower Shannon and the Ballylonford and Tarber Bay areas defined as of significant ecological importance in the Kerry County Development Plan 2003-2009 ? Also, I note from memory that in your pre-application consultations with Shannon LNG,

Shannon LNG said that their own development would be incompatible with a parallel planning application being mooted for the same area - which we are now taking to be SemEuro to whom they are in fact linked it would now appear.

What we want to know today is:

1. Where is the SemEuro application for exactly - i.e. the name of the townlands?
2. Why has the information on SemEuro not been in the public domain as it has a huge bearing on the real intentions of Shannon LNG and has deprived the general public timely access to information on intentions and possible alternative uses of the site to participate fully in the planning process?
3. Is Kerry County Council aware of the SemEuro pre-application consultations?
4. We need copies today of all pre-application consultation documentation at your disposal by SemEuro. If you do not give us this as pertinent to PA0002, we are hereby requesting it under Freedom of Information legislation. This is not company-sensitive information.
5. Please add out objections to PA0002 to the PC0008 file as the objections are similar.

OMBUDSMAN ATTACHMENT

- 16. Final Reply from Kerry County Council on Complaint from Kilcolgan Residents Association on breach of procedure**

From: Sheila Broderick [mailto:Sheila.Broderick@kerrycoco.ie]

Sent: 22 November 2007 16:49

To: McElligott, John

Subject: FAO Karen Sheehy re Complaint on refusal to undertake an SEA on Variation No 7 of 2007

Dear Mr. McElligott,

I refer to your email of Monday 19th November, 2007 regarding Variation No. 7 to the Kerry County Development Plan.

I wish to inform you that under the Planning and Development (Strategic Infrastructure) Act, 2006 it is a matter for An Bord Pleanala to determine the application for consent for the development. We do not wish to comment further on this application as it is a matter for An Bord Pleanala to issue a decision on it.

In relation to the question of a Strategic Environmental Assessment this is not mandatory in this case and Kerry County Council following a screening process decided that such Strategic Environmental Assessment was not necessary.

Regards

Anne O'Sullivan,
Customer Services Department