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1. INTRODUCTION

1.1 This report represents the Department's determination on the need for Environmental Impact Assessment with respect to the proposed powerline applications (listed below). In making its determination it has had regard to the following Environmental Impact Assessment Screening reports prepared by RPS on behalf of the applicant NIE Networks:

- Ecological Impact Assessment;
- Landscape and Visual Screening Assessment;
- Cultural Heritage Screening Assessment;
- Water Quality Screening Assessment;
- Fisheries & Aquatic Ecology Screening Assessment with update;
- Flood Risk Analysis (mapping);
- Outline Construction Environmental Management Plan (OCEMP).

1.2 Given the detailed technical appraisal in many of the reports the Department also conducted a consultation exercise with relevant expert consultees and their responses were also taken into account in the determination. Account was also taken of the RPS letter accompanying the request for EIA screening determination.

2. NATURE AND EXTENT OF PROPOSED DEVELOPMENT

2.1 The development is contained within two separate applications submitted to the local Councils, (Fermanagh and Omagh District Council and Derry City and Strabane District Council) and subsequently called-in by the Department under Section 29 of the Planning Act (NI) 2011.

2.2 The application references are LA10/2019/1386/F - Fermanagh & Omagh Council District & LA11/2019/1000/F – Derry City & Strabane Council District. The proposal consists of a 33kV power line involving both construction of above ground 33kV overhead line and underground 33kV cable laid in ducts. These in combination will provide the electricity supply to the proposed Curraghinalt mine (currently under consideration planning application LA10/2017/1249/F).

2.3 The total line length is c37.9 km, comprising of c26.9 km of overhead line and c11 km of underground cabling. Some 15.1 km of the powerline is within the Fermanagh &

Omagh District Council area comprising of c 8.2 km of overhead line and c 6.9 km of underground cabling. A further 22.8 km of the powerline is within the Derry City & Strabane District Council area comprising of c 18.7km of overhead line with c 4.1 km of underground cabling.

- 2.4** The design is a mix of single and double (“H”) wood pole structures which are supported by stays at points where the overhead line route changes direction or terminates. Each wooden pole will be stout with a 200mm head diameter. The pole heights will range from 11-20m, with the H pole consisting of 2 poles braced together 1.8m apart and a steel cross arm supporting the 3 phase conductors.

3. EIA LEGISLATION AND REQUIREMENT FOR EIA DETERMINATION

- 3.1** Section 51 of the Planning (NI) Act 2011 allows the Department by regulations to make provision about the consideration to be given, before planning permission for development of any class specified in the regulations is granted, to the likely environmental effects of the proposed development. The relevant Regulations made by the Department are *The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017* - the ‘EIA Regulations’.

- 3.2** Under Regulation 12 (1) of the EIA Regulations, where it appears to the Department that the application received is:

- a) a Schedule 1 or Schedule 2 application;
 - b) the development in question has not been subject of a screening determination as to whether the development is or is not EIA development;
 - c) the application is not accompanied by a statement referred to by the applicant as an environmental statement.....;
- the Department shall make a screening determination as to whether the development is EIA development.

Regulation 8 of the EIA Regs shall apply as if receipt of the application were a request made under paragraph (1)(a) of regulation 8.

- 3.3** In assessing whether the development falls within Schedule 1 or 2 development TABLE 1 sets out the principal steps in the process:

TABLE 1	Yes/No – Please Describe
Does the proposed development fall within the scope of Schedule 1	NO
Does the proposed development fall within a type listed in Column 1 of Schedule 2?	YES The proposed development mostly falls within category 3 of Column 1 – Energy Industry, (c) Transmission of

	electrical energy by overhead cables (underground component not mentioned).
Does the proposed development meet any of the relevant thresholds and / or criteria in Column 2 of Schedule 2?	NO (i)The nominal voltage of the electric line does not exceeds 33kV; and (ii)the purpose of the line is to supply one consumer; (iii) modification of an existing line is not proposed outside the tolerances specified in the Overhead Lines (Exemption) Regulations (Northern Ireland) 1992
Is the proposed development to be located within a “sensitive area”?	YES The majority of the proposed development is located within the Sperrin AONB. A portion of the proposed development spans the Owenkillev River, a designated Special Area of Conservation (SAC) and a European Site. The Owenkillev River is also an Area of Special Scientific Interest (ASSI).
Does the proposed development change or extend development described in Column 1 of Schedule 2?	NO

3.4 Regulation 2 defines “sensitive area” as any of the following - Areas of Special Scientific Interest (ASSI), Areas of Outstanding Natural Beauty (AONB), National Parks, World Heritage Sites, Scheduled Monuments and European Protected Sites. As Schedule 2 applies to any part of that development to be carried out in a sensitive area, the development is Schedule 2 development and a screening determination is required to determine as to whether the development is EIA development.

4. SCREENING DETERMINATION FOR EIA

4.1 As the development is determined to fall within Schedule 2, the screening process considers whether the development is EIA development. EIA development is defined at Regulation 2 as development which is **‘likely to have significant effects on the environment by virtue of factors such as nature, size or location’**. As required by regulation 8(7), where the Department has to decide whether Schedule 2 development is EIA development, they must take into account the selection criteria set out in Schedule 3 as are relevant to the development. The development under consideration comprises the two powerline planning applications and it is the totality of their likely significant effects that forms the basis of the screening determination.

4.2 The Department has taken into account the selection criteria set out in Schedule 3, as are relevant to the proposed development and as assessed in the screening determination matrix at Table 2. In considering the assessment the matrix assists in:

- identifying the potential impacts of the proposed development based upon the characteristics of the development and its location;
- considering whether significant environmental effects are likely based upon the characteristics of the potential impacts and the possibility of effectively reducing the impact;
- establishing the broad considerations leading to the detailed reasons for conclusion at Section 6

TABLE 1 Schedule 3 selection criteria as are considered relevant	<u>Potential Impact</u> (Yes/No/N/A) Briefly describe potential impact. If answer NO, the answer in the second column is N/A	<u>Is this likely to result in a significant effect?</u> (Yes/No/N/A) Include measures envisaged to avoid or prevent significant adverse impacts on the environment
SIZE AND DESIGN		
Will the proposed development be out of scale with the existing environment?	NO Overhead powerline infrastructure is widely present throughout parts of the rural landscape – whilst extensive in overall length it is not out of scale with the existing environment.	N/A
CUMULATIVE EFFECTS		

TABLE 1 Schedule 3 selection criteria as are considered relevant	<u>Potential Impact</u> <u>(Yes/No/N/A)</u> Briefly describe potential impact. If answer NO, the answer in the second column is N/A	<u>Is this likely to result in a significant effect?</u> <u>(Yes/No/N/A)</u> Include measures envisaged to avoid or prevent significant adverse impacts on the environment
Are there potential cumulative impacts with other existing and/or approved developments	YES Visual impact with existing wind turbines, existing powerlines, the proposed mine served by this proposal, existing residential properties/rural development and consented turbines etc.	NO The Sperrin AONB is considered to have a high sensitivity to change and given the length of the proposed development and in combination with other developments it is considered there is the potential for significant visual impacts. No landscape mitigation measures are proposed.
USE OF NATURAL RESOURCES		
Will the proposed development use natural resources such as land, water, materials or energy, especially any resources which are non-renewable or are in short supply?	YES The development by its nature of sourcing and erecting wooden poles, overhead wires and laying underground cabling will impact on the use of natural resources.	NO Whilst the project, would result in the need for excavation of land to provide the infrastructure, and use of materials the effects are not considered to be significant. The main raw material is considered a renewable resource.

TABLE 1 Schedule 3 selection criteria as are considered relevant	<u>Potential Impact</u> <u>(Yes/No/N/A)</u> Briefly describe potential impact. If answer NO, the answer in the second column is N/A	<u>Is this likely to result in a significant effect?</u> <u>(Yes/No/N/A)</u> Include measures envisaged to avoid or prevent significant adverse impacts on the environment
Will construction, operation or decommissioning of the project involve actions which will cause physical changes in the topography of the area?	YES The development by its nature of erecting wooden poles and laying underground cabling will impact on the topography albeit it is unlikely to change significantly the topography of the area.	NO This is not considered to be a likely significant effect. The OCEMP indicates relatively small intrusive construction activities and it is not envisaged that there will be any significant change to the area's topography.

TABLE 1 Schedule 3 selection criteria as are considered relevant	<u>Potential Impact</u> <u>(Yes/No/N/A)</u> Briefly describe potential impact. If answer NO, the answer in the second column is N/A	<u>Is this likely to result in a significant effect?</u> <u>(Yes/No/N/A)</u> Include measures envisaged to avoid or prevent significant adverse impacts on the environment
Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, e.g. forestry, agriculture, water/coastal, fisheries, minerals?	YES There are important water courses that are home to pearl mussel and salmon.	YES The OCEMP in support of the application sets the parameters in respect of water quality, fisheries and aquatic ecology, within which the detailed provisions of the final CEMP will be delivered. The OCEMP includes best practice for works in and around watercourses taking account of matters such as: structural integrity, site drainage, foul water disposal, silt management, fuels and material storage, monitoring, pollution prevention and emergency planning. The mitigation measures delivered through the CEMP are dependent on suitable planning conditions and a low risk for the various methodologies operating over an extensive area in a variety of terrains and ground conditions and habitat interests. The Department is not convinced that standard planning conditions will address all these matters and finds the potential remains for likely significant effects.
PRODUCTION OF WASTE		

TABLE 1 Schedule 3 selection criteria as are considered relevant	<u>Potential Impact</u> <u>(Yes/No/N/A)</u> Briefly describe potential impact. If answer NO, the answer in the second column is N/A	<u>Is this likely to result in a significant effect?</u> <u>(Yes/No/N/A)</u> Include measures envisaged to avoid or prevent significant adverse impacts on the environment
Will the construction, operation or decommissioning of the proposed development produce wastes?	YES There will be excavated earth and building materials during construction phase	NO With the mitigation measures proposed this is not considered to be a likely significant effect. It is considered the amount of waste arising from excavations to lay cable or set poles would not be significant and an amount of the excavated material will be reinstated where possible as backfill.
POLLUTION AND NUISANCES		
Will the construction, operation or decommissioning phases of the proposed development release pollutants or any hazardous, toxic or noxious substances to the air?	YES Potential for impacts on local air quality at construction phase due to use of machinery/plant, dust from excavation and construction traffic,	NO It is not considered that the nature of any of the construction excavation works would give rise to release of any hazardous, toxic or noxious airborne substances or be likely to have a significant effect upon air quality. It is considered that in line with best practice for construction phase, traffic management and dust control measures could be secured as necessary by condition in consultation with Environmental Health Departments.

TABLE 1 Schedule 3 selection criteria as are considered relevant	<u>Potential Impact</u> <u>(Yes/No/N/A)</u> Briefly describe potential impact. If answer NO, the answer in the second column is N/A	<u>Is this likely to result in a significant effect?</u> <u>(Yes/No/N/A)</u> Include measures envisaged to avoid or prevent significant adverse impacts on the environment
Will the construction, operation or decommissioning of the proposed development lead to risk of contamination of land or water from releases of pollutants?	YES Potential primarily for soil, mud and clay to be released into surrounding watercourses via surface water run-off, the potential removal of vegetation along watercourses, use and storage of fuels, oil for machinery and treatment of sewage facilities, and primarily during construction phase.	YES It is acknowledged the Owenkillew and Glenelly catchments in particular are highly sensitive receptors. The Owenkillew is an SAC and incorporates the Owenkillew River Area of Special Scientific Interest (ASSI). The SAC features the largest population of freshwater pearl mussel in Northern Ireland. The OCEMP in support of the application sets the parameters in respect of water quality, fisheries and aquatic ecology, within which the detailed provisions of the final CEMP will be delivered. The mitigation measures are dependent on suitable planning conditions and a low risk for the various methodologies operating over an extensive area in a variety of terrains and ground conditions and habitat interests. The Department is not convinced that standard planning conditions will address all these matters and finds the potential remains for likely significant effects.

TABLE 1 Schedule 3 selection criteria as are considered relevant	<u>Potential Impact</u> <u>(Yes/No/N/A)</u> Briefly describe potential impact. If answer NO, the answer in the second column is N/A	<u>Is this likely to result in a significant effect?</u> <u>(Yes/No/N/A)</u> Include measures envisaged to avoid or prevent significant adverse impacts on the environment
Will the construction, operation or decommissioning phases of the proposed development cause noise, vibration or the release of light, heat, energy or electromagnetic radiation?	YES The proposed development will generate electric and magnetic fields (EMF) with potential for a noise impact. There is potential to generate noise from plant and machinery during construction phase	NO It is considered this is not a significant effect and EMF can be considered in consultation with Public Health Agency who can provide expert advice on the relevant ICNIRP guidelines. Likely significant environmental effects arising from vibration and noise during construction can be controlled through restrictions on hours or operation for construction.
MAJOR ACCIDENTS		
Will there be any risk of major accidents (including those caused by climate change, in accordance with scientific knowledge) during construction, operation or decommissioning?	YES Potential for human error that could impact on the environment	NO As with most construction operations there is a risk of major accidents happening. In carrying out the operations, workers must adhere to the Health and Safety at Work (NI) regulations and expert advice can be sought from HSENI through the consultation process. It is considered this is not a likely significant effect and can be mitigated by appropriate condition.
HUMAN HEALTH		

TABLE 1 Schedule 3 selection criteria as are considered relevant	<u>Potential Impact</u> <u>(Yes/No/N/A)</u> Briefly describe potential impact. If answer NO, the answer in the second column is N/A	<u>Is this likely to result in a significant effect?</u> <u>(Yes/No/N/A)</u> Include measures envisaged to avoid or prevent significant adverse impacts on the environment
Will the project present a risk to the population (having regard to population density) and their human health during construction, operation or decommissioning? (for example due to water contamination or air pollution)	YES Potentially there could be impact on the human health of the surrounding population in terms of use of plant equipment, material transportation and possible dust from construction operations.	NO With the mitigation measures proposed this is not considered to be a likely significant effect. Advice will also be taken from Public Health Agency as part of the consultation process and appropriate conditions can be applied to implement any agreed CEMP measures. Dust pollution is not considered to be a likely significant effect given the nature of the development. Where any small and localised impacts arise dust control measures could be secured by condition in consultation with Environmental Health Departments if necessary.
LAND USE		
Are there existing and/or approved land uses or community facilities on or around the location which could be affected by the project? E.g. housing, densely populated areas, industry / commerce, farm/agricultural holdings, forestry, tourism, mining, quarrying, facilities relating to health, education, places of worship, leisure /sports / recreation	YES The majority of the land use that the proposal traverses is rural in nature, therefore there could be potential impact on local residents, farming activities and tourism etc.	YES Given the extent of the development it is not established that there would not be likely significant effects on residential amenity. 208 properties and clusters of properties are identified within the 500m corridor. The outlook from a number of these properties has the potential to be significantly impacted and a residential visual amenity assessment should be carried out as part a wider residential amenity assessment. A likely significant effect cannot be precluded.

TABLE 1	<u>Potential Impact</u>	<u>Is this likely to result in a significant effect?</u>
Schedule 3 selection criteria as are considered relevant	<u>(Yes/No/N/A)</u> Briefly describe potential impact. If answer NO, the answer in the second column is N/A	<u>(Yes/No/N/A)</u> Include measures envisaged to avoid or prevent significant adverse impacts on the environment
NATURAL ENVIRONMENT		

<p>Are there any areas on or around the application site that are protected under international or national legislation for their ecological, landscape, cultural heritage or other value which could be affected by the construction, operation or decommissioning of the proposed development?</p> <p>Are there any protected areas which are designated or classified for their terrestrial, avian and marine ecological value, or any non-designated / non-classified areas which are important or sensitive for reasons of their terrestrial, avian and marine ecological value, located on or around the location and which could be affected by the project? (e.g. wetlands, watercourses or other water-bodies, the coastal zone, mountains, forests or woodlands, undesignated nature reserves or parks. (Where designated indicate level of designation (international, national, regional or local))).</p> <p>Could any protected, important or sensitive species of flora or fauna</p>	<p>YES</p> <p>The majority of the proposed development falls with the Sperrin AONB.</p> <p>A portion of the proposed development spans the Owenkillew River, a designated Special Area of Conservation (SAC) and therefore a European Site. This is also an Area of Special Scientific Interest (ASSI). The Owenkillew and Owenreagh Rivers are within the River Foyle and its tributaries Special Area of Conservation (SAC) - supports significant numbers of Atlantic Salmon and Otter.</p> <p>The Owenkillew River is an SAC and incorporates the Owenkillew River Area of Special Scientific Interest (ASSI), Drumlea and Mullan Woods and Owenkillew and Glenelly Woods ASSI. The SAC features the largest population of freshwater pearl mussel in Northern Ireland. Also includes salmon, otter, bog woodland, water crowfoot and old woodlands.</p>	<p>YES</p> <p>It is considered that there will be likely significant effects on designated sites, habitats and species.</p> <p>The mitigation measures are dependent on suitable planning conditions and a low risk for the various methodologies operating over an extensive area in a variety of terrains and ground conditions and habitat interests. The Department is not convinced that standard planning conditions will address all these matters and finds the potential remains for likely significant effects.</p> <p>At least one species will require further survey work to assess impact.</p>
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TABLE 1 Schedule 3 selection criteria as are considered relevant	<u>Potential Impact</u> <u>(Yes/No/N/A)</u> Briefly describe potential impact. If answer NO, the answer in the second column is N/A	<u>Is this likely to result in a significant effect?</u> <u>(Yes/No/N/A)</u> Include measures envisaged to avoid or prevent significant adverse impacts on the environment
which use areas on or around the site, e.g. for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?	Owenreagh River ASSI for the feature of freshwater pearl mussel. Also possible impact on peat which supports blanket bog and wet heath habitats which are priority habitat under Annex 1 of the EU Habitats Directive. Potential impact on protected species such as otter, badger, newt, common lizard, breeding birds and fritillary marsh butterfly.	
WATER RESOURCES		

TABLE 1 Schedule 3 selection criteria as are considered relevant	<u>Potential Impact</u> <u>(Yes/No/N/A)</u> Briefly describe potential impact. If answer NO, the answer in the second column is N/A	<u>Is this likely to result in a significant effect?</u> <u>(Yes/No/N/A)</u> Include measures envisaged to avoid or prevent significant adverse impacts on the environment
<p>Are there any water resources including surface waters, e.g. rivers, lakes/ponds, coastal or underground waters on or around the location which could be affected by the project, particularly in terms of their volume and flood risk?</p> <p>Are there any groundwater source protection zones or areas that contribute to the recharge of groundwater resources which could be affected by the proposed development?</p>	<p>YES</p> <p>There is potential for impacts to occur on surface water and ground water quality. Potential for run off into sensitive receiving water courses.</p>	<p>NO</p> <p>It is considered that the risk of flooding in the development corridor is low. Whilst there is potential for temporary impoundment for some minor streams it is not considered a significant effect in terms of affecting water volume.</p> <p>In terms of ground water impacts, the poles, when sunk into the ground may release some contamination due to the protecting coats they will be covered in, however it is not considered nor is there evidence to suggest these are likely be significant and can be fully assessed as part of the consultation process with NIEA.</p>
<p>Are there any areas on or around the location of the proposed development where environmental quality standards are already exceeded which could be affected by the proposed development?</p>	<p>NO</p> <p>Dfl Planning are not aware of any documented evidence to suggest there are any specific areas in the proximity of this proposal where there are issues with environmental quality standards.</p>	<p>N/A</p>
<p>LANDSCAPE AND VISUAL</p>		

<p>Are there any areas or features on or around the location which are protected for their landscape and scenic value, and/or any non-designated / non-classified areas or features of high landscape or scenic value on or around the location which could be affected by the project? Where designated indicate level of designation (international, national, regional or local).</p> <p>Is the project in a location where it is likely to be highly visible to many people?</p>	<p>YES</p> <p>The route is largely within the Sperrin AONB (nationally important) and will traverse 4 different landscape character areas.</p> <p>Circa 28km will be over ground.</p> <p>Given the length of the powerline route it is considered that it will have impacts for both local residents and to the wider community who may visit the locality for tourist or recreation purposes.</p>	<p>YES</p> <p>The Sperrin AONB in parts is considered to have a high sensitivity to change; whilst wooden pole overhead lines are not uncharacteristic in parts of the route corridor, given the length of the route, in parts over an open elevated landscape, and in combination with other developments it is considered that there is potential for likely significant environmental effects.</p> <p>Of the 208 dwellings identified within the 500 metre corridor, the screening assessment judges all to be minor/moderate with respect to their experience of visual effects (Table 10). Given the number of properties along the length of the line corridor it is considered that a Residential Visual Amenity Assessment (RVAA) would provide additional information to assess whether the development is likely to result in visual changes which significantly affect the quality of life or living conditions of residents – which would also assist in assessing wider residential amenity issues. The potential of likely significant effects arising from the outlook from neighbouring properties cannot be excluded.</p> <p>Potential of the 11 viewpoints selected to illustrate the existing visual context is queried as well as the significance of the impacts.</p> <p>A likely significant effect cannot be precluded.</p>
<p>TRANSPORTATION AND ACCESS</p>		

TABLE 1 Schedule 3 selection criteria as are considered relevant	<u>Potential Impact</u> <u>(Yes/No/N/A)</u> Briefly describe potential impact. If answer NO, the answer in the second column is N/A	<u>Is this likely to result in a significant effect?</u> <u>(Yes/No/N/A)</u> Include measures envisaged to avoid or prevent significant adverse impacts on the environment
Are there any transport routes on or around the location which are used by the public for access to recreation or other facilities, which could be affected by the proposed development? Are there any transport routes on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the development?	YES The development has potential have an impact in terms of increase traffic movements and volume of vehicles on the road network, mostly during construction phase. Potential impact on laying of underground cables along parts of road network	NO Impacts will be concentrated at the construction phase for a period circa 12-18 months and therefore not long term. With the projected vehicle trip numbers (Table 4.2 of the OCEMP) and using mostly the existing road network during the construction phase (Appendix C of the OCEMP) it is not considered to be a likely significant effect.
CULTURAL HERITAGE AND ARCHAEOLOGY		
Are there any areas or features which are protected for their cultural heritage or archaeological value, or any non-designated / classified areas and/or features of cultural heritage or archaeological importance on or around the location which could be affected by the project (including potential impacts on setting, and views to, from and within)? Where	YES Based on the available information there are scheduled monument sites in proximity to the route of the line, a number of industrial heritage sites (bridges) and a number of listed buildings.	YES Mitigation is proposed to include exclusion zones at construction phase within the vicinity of identified/recorded/potential archaeological monuments. A licensed archaeological monitoring programme to be implemented at early construction phase and post evaluation excavation reporting as necessary. It is considered the project has the potential to have a likely significant effect on cultural heritage (e.g.: on the setting of a group of prehistoric monuments in Culvacullion and Trinamadan townlands) by introducing

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designated indicate level of designation (international, national, regional or local).		an incongruous form of development into parts of the upland landscape. This impact has not been sufficiently mitigated and the impact is thus likely to be significant It is not considered that there are likely significant effects on the various listed buildings along the proposed route There is no LB's within the 200m corridor and only two within 1km.
TRANSBOUNDARY		
Is the project likely to lead to transboundary effects?	YES The project is hydrologically linked to the River Finn SAC; there is potential for sediments or contaminates to impact this watercourse through surface water run-off. There may be transboundary visual impact from the project	NO Given the distance from the receiving streams it is unlikely that there will be significant transboundary effects. It is considered they may be some transboundary visual impacts at the northern point of the line with County Donegal however given the distance and nature of the proposal it is considered these are unlikely to have a significant transboundary visual impact.
STABILITY		
Is the location susceptible to earthquakes, subsidence, landslides, erosion, or extreme /adverse climatic conditions?	N/A	N/A

5. ENVIRONMENTAL IMPACT ASSESSMENT SCREENING DETERMINATION

- 5.1 The Department has had regard to the scale and nature of the project and provided a proportionate assessment taking account of all available information including consultee responses, the proposed mitigation measures outlined in the detailed technical screening documents and the probability of impacts on the receiving environment arising from the proposed development during the construction or operational phases.
- 5.2 The Department does not concur with various submissions that all the impacts are reduced to no likely significant effects, in some cases even where extensive mitigation measures are proposed. On that basis the Department determines that the proposed development is EIA development and that the proposed project must proceed by way of an Environmental Impact Assessment.

6. STATEMENT ON THE MAIN REASONS FOR THE CONCLUSION

- 6.1 In reaching the conclusion that the proposed project must proceed by way of an Environmental Impact Assessment, the Department has had regard to the environmental information submitted including in particular the Ecological Impact Assessment **EciA** (with a confidential badger survey), Landscape and Visual Impact Assessment **LVIA**, Cultural Heritage Screening Assessment **CHSA**, Water Quality Screening Assessment **WQSA**, Fisheries & Aquatic Ecology Screening Assessment **FAESA** and the additional Fisheries & Aquatic Screening Assessment - Received 15.09.20 **aFAESA**, Flood Risk Analysis **FRA** and the Outline Construction Environmental Management Plan **OCEMP**. It has also taken into account consultee comment. The main reasons for the conclusion reached are:

- **Potential Water Quality Effects**

In the **WQSA** the potential impacts are assessed for the construction, operational and decommissioning phases of the development. Neither the operational nor the decommissioning phase is likely to give rise to significant environmental effects. The significance of the adverse impacts on water quality are assessed in the construction phase to be in a range from negligible to very large adverse in the absence of adequate mitigation measures. The potential impacts on water quality for affected water bodies for both overhead line and underground cable are summarised in Tables 8.1 and 8.2. It is concluded that provided the mitigation measures proposed in the assessment are implemented, the residual impact from the development is considered to be negligible.

The mitigations measures proposed comprise three main elements related to prevention of sediment pollution, measures to reduce the risk of bank erosion and sediment input to the channel and procedures to be followed to reduce the potential risk from the storage of oils and chemicals. Off-site sewage disposal is not considered

to be significant. The proposed mitigation measures at Section 7 are largely repeated at Section 5 in the OCEMP.

The construction method for the underground watercourse crossings are listed in Table 2.1 and as identified in Figures 5.1 to 5.3 of the WQSA. Where the methodology differs from the standard technique outlined in Section 2.2.3 the detailed methodology is provided in Appendix D of the OCEMP.

The Department is satisfied that the proposals might well be routine and standard industry environmental management systems though the OCEMP does not provide an evidence base to demonstrate the risk associated with the various mitigation methodologies. Information on how routine such methodologies are or how their use and operational outcomes in similar sensitive environments including river crossings with high nature conservation value would have allowed some comparison of risk. In the absence of same the probability of a significant effect cannot be ruled out.

Notwithstanding whether or not the mitigation measures are routine and of low risk they must also be capable of successful implementation. The mitigation measures will form part of the site-specific Construction Environmental Management Plan (CEMP) which will be in operation during the construction phase.

Successful implementation goes beyond adherence to published guidelines and operating practices as it relies on whether the planning system has the appropriate means to monitor, control and enforce the CEMP provisions. As a planning condition cannot in itself prevent harm if for example the CEMP methodologies/processes fail it is particularly important that there is a strong evidence base of low risk for the various methodologies operating over an extensive area in a variety of terrains and ground conditions with significant habitat interest. The issue should be read in conjunction with the mitigation measures proposed for ecology and fisheries & aquatic ecology given their interrelated nature.

Whilst not precluding that this could be done at low risk the Department finds that, for screening purposes, there is material doubt and in applying the precautionary principle, which underlies the EIA Directive, the potential for likely significant effects on water pollution should be resolved in favour of EIA. (see also comment in ecology and aquatic ecology on mitigation)

- **Potential Ecological Effects**

The **OCEMP** at Section 6 outlines the ecological mitigation measures informed by the **EclIA**. Residual impacts (Section 7 of the EclIA) identifies the significance of effects after the implementation of mitigation measures. This indicates that for the different phases, even with mitigation measures there remain a range of adverse effects including:

major adverse on the NIPH Wet Woodland, during construction and operation;
moderate adverse on Owenreagh Hill Local Wildlife Site, during construction and on bats if Bat Roost Inspection Surveys of Trees confirm the presences of bat roosts.

There is doubt about what this effect will be as Bat Roost Inspection Surveys are required to confirm (Table 1 Preliminary Roost Assessment for Trees and Further Survey Inspection Result);

minor adverse on Glenelly River Local Wildlife Site, during construction and operation but no permanent damage following the implementation of mitigation measures to protect water quality;

- on Golan Burn Local Wildlife Site, during construction and during operation but no permanent damage following the implementation of mitigation measures to protect water quality and reinstate habitat;

- on the NIPHs Blanket Bog; Wet Modified Bog; Upland Fens, Flushes and Swamps; Upland Heath and Purple Moorgrass and Rush Pasture, during construction due to pole and cable installation, with temporary disturbance to features of regional importance but no permanent damage and No Significant Effect during operation following the implementation of mitigation measures to protect habitat;

- on the NIPH Rivers and Streams, during construction due to site clearance of vegetation and watercourse crossings and during operation due to vegetation management, with temporary disturbance to features of regional importance, but no permanent damage following the implementation of mitigation measures to protect water quality;

- on the NIPH Hedgerows and the non-priority habitat broadleaved semi-natural woodland during construction and operation due to site clearance of vegetation and vegetation management, with the loss of woodland of regional importance following the implementation of mitigation measures;

- on the non-priority habitat marshy grassland during construction due to pole and cable installation, with temporary disturbance to features of regional importance but no permanent damage and No Significant Effect during operation following the implementation of mitigation measures to protect habitat.

Measures are proposed in Section 8 of the EclA to compensate for damage to Northern Ireland Priority Habitats across the project. These areas will be in addition to compensatory measures already outlined within the Curraghinalt mine site *Ecological Mitigation and Management Plan* submitted in respect of planning application LA10/2017/1249/F and will be delivered by the developer (Section 6.6 of the OCEMP). The Department has checked the relevant mine site ecological mitigation and can find no reference currently to these additional compensatory measures required by the powerlines. No weight is therefore attached to this proposal and the impacts remain as described at 7.2.

The ecological mitigation measures proposed in the OCEMP at Section 6 are informed by the EclA report. Ecological protection relies in combination on the ecological mitigation measures detailed in the EclA, the WQSA, the two FAESA reports and as set out in the OCEMP. The measure in the WQSA and FAESA are dealt with separately and this section focuses on those mitigation measures identified in the EclA and the OCEMP. The OCEMP sets out the standards that will be implemented throughout the life of the development including details of the construction and operation of the project, construction method statements at

watercourse crossings, environmental management measures that will be put in place to mitigate environmental effects and provides details of audit procedures.

Of central importance in monitoring mitigation measures is the provision of an ECoW, or several, who will provide direction at both pre-construction and during construction in relation to undertaking a range of activities including appropriate monitoring. It is indicated that the direction of the ECoW will be binding.

The Department does not find that the combination of mitigation/compensation and implementation measures will be routine. For example there is potential for a number of ECoWs on site particularly where multiple active work sections may be constructed in parallel using additional work teams. Whilst the OCEMP outlines the binding powers of the ECoW, in terms of implementation, these powers must also be capable of control through the planning systems. Given the linear extent of the site, the number and diverse range of habitats impacted, the potential for numerous working sites simultaneously, the Department is not convinced that the OCEMP measures, primarily under the control of the applicant and however well-intentioned would be sufficient to ensure that all mitigation measures are implemented by a routine planning condition. For the mine project the Department is considering the need to appoint its own on-site ecologists and as part of the project this should be extended to the powerlines. These would be employed by the Department but funded by the applicant and this measure (and its costs) will be the subject of detailed negotiations and the subject of a S76 planning agreement. Any binding powers, for example the ability to stop work, it is felt should rest with the Department's ecologist and enforced through a legally binding planning agreement rather than a breach of planning condition.

The Department finds that, for screening purposes, there is potential for likely significant effects on bats which may only be determined following further survey work. Compensation measures do not appear to be currently subsumed within the mine application. The Department also finds material doubt in how mitigation measure will be implemented, particularly where a S76 planning agreement may have to be negotiated and in applying the precautionary principle, which underlies the EIA Directive, the potential for likely significant effects on ecology should be resolved in favour of EIA.

- **Potential Cultural Heritage Effects**

The CHSA at Section 6 sets out the mitigation measures primarily for the construction phase. These comprise three main measures:

- Creation of exclusion zones at initial phase of Construction Stage, adjacent recorded/potential archaeological sites
- Licenced archaeological monitoring programme (watching brief) at earliest stage(s) of construction phase at all greenfield cable route areas, adjacent areas of identified Cultural Heritage constraints (recorded and potential) and pole-sets not subject to field inspection as part of this report
- Post-evaluation/excavation reporting, as appropriate, to the relevant authorities

The letter requesting a screening determination indicates that design iterations were completed following detailed field surveys including cultural heritage matters. The assessment of significance of Effect is categorised as Profound, Very Significant, Significant, Moderate, Slight, Not Significant or Imperceptible and the study corridor was determined to be 200m wide for assessment of potential direct impacts and the 1km wide study area for indirect visual impact assessment. Impacts are summarised at Table 4.

HED (Historic Monuments) has assessed the information and has some concerns regarding the impact of the proposed overhead powerlines (OHL) on the setting of a group of prehistoric monuments in Culvacullion and Trinamadan townlands, Co. Tyrone. This includes a stone circle (TYR 18: 56), four stone circles and alignments known as the Slieve Beg standing stones (TYR 18: 08) and 3 standing stones that are possibly the remains of a megalithic tomb (TYR 18: 50). The first two of these are scheduled monuments afforded statutory protection under the provisions of the Historic Monuments and Archaeological Objects (NI) Order 1995. HED (Historic Monuments) considers that any adverse impact upon the setting of these monuments should be avoided and advises that the applicant considers realigning the proposed OHL to avoid the impacts identified in the archaeological impact assessment accompanying the application. Currently the setting of these monuments is relatively undisturbed upland, with wide views across the area and more distant views towards Donegal. The introduction of the OHL as proposed will introduce an incongruous form of modern development into this upland landscape and change the character of the functional and visual settings of this group of monuments. A further group of potential prehistoric monuments has been identified to the north-east of these recorded monuments by the applicant's archaeological consultants during field work for this project. Taken with the recorded monuments these indicate that a substantial prehistoric landscape is present on Slieve Beg.

Physical, visual and functional setting criteria were used by the applicant's consultant to describe the potential impact on the setting of the newly discovered stone arrangement, as well as the nearby Scheduled Monuments. Trinamadan, close to the boundary with Culvacullion, County Tyrone. Consideration was given to amending the alignment to potentially lessen the indirect impact on the setting of the stone arrangement but such movement had the potential to increase the visual prominence of the OHL and might have also potentially brought the line closer to other potential archaeological features.

Proposed cultural heritage mitigation measures are to a large extent limited to those relating to archaeological monitoring during the construction phase and post-evaluation/excavation reporting, as appropriate, to the relevant authorities. The ability to mitigate by adjusting the route of the line may be constrained by other factors such as landscape or nature conservation impacts and such detailed consideration is a matter for the planning application where it would be possible to consider the relative balance between these sometimes competing interests.

For screening purposes, based on the route as submitted and HED comments, the Department is persuaded that there will be potential for likely significant effects. The potential for likely significant effects on cultural heritage should be resolved in favour of EIA.

- **Potential Landscape and Visual Effects**

In the **LVIA** the potential landscape and visual effects are assessed for the construction and operational phases of the development. All of the identified LCAs have been predicted to experience localised, temporary, adverse but not significant landscape impacts during the construction phase which is accepted. During the operational phase of the development no significant landscape effects are predicted for any of the four LCAs and the wider AONB due to the nature of development and the open, expansive nature of the landscapes within which it is placed (Table 8 of the LVIA Summary of Predicted Landscape Effects). Visual effects from 11 representative viewpoints are predicted to range from minor and not significant to a single impact of minor to moderate and not significant (Table 9 of the LVIA: Summary of Predicted Visual Effect).

Mitigation measures are not proposed though it is indicated that the initial route design took account of the Holford Rules which are used by NIE Networks as a tool to select and assess potential route options for overhead power lines. The route design of the development has addressed the principles established by these Rules which are not solely concerned with landscape but involve a consideration of other matters such as cultural heritage, ecological and technical e.g. consideration of the need to maintain clearances from specified structures such as phone masts and wind turbines and to minimise crossings with other existing power lines. It is considered that a number of matters remain to be addressed.

The limited number of viewpoints (11 No) is unlikely to be fully representative of the viewpoints and visual effects of the development along its route. The Department does not agree that there are unlikely to be significant landscape effects because it does not accept that only one viewpoint VP 7 Glenelly Road would result in minor to moderate and not significant visual impact. It considers that VPs 2, 3, 4, 8 and 10 (and the landscape they represent) have the potential to result in greater visual effects than VP7. OHLs are generally a minor element or not visible in these viewpoints.

As these viewpoints are representative, selected to illustrate the existing visual context of the development and as an aid to the visual impact assessment (1.7 of the LVIA) the extent to which these may be characteristic of the entire route is not known. If they are, and impacts are greater than for VP7, then there is potential for likely significant landscape effects over an extensive part of the route. If they are not characteristic then a greater range of viewpoints would be required to better reflect the entire route.

The range of cumulative impacts identified represent the landscape and visual impacts of the development when viewed in context with other development within the study area and is limited to proposed development. (Table 7 of the LVIA - Cumulative Developments Considered). The cumulative impacts of existing development including overhead lines, telecommunication masts, wind turbines and built form, where present within the landscape have been considered as part of the LVIA baseline and are noted in views where applicable. There is little reference in the baseline to these features and references to existing overhead lines are generalised as at 1.3.1. Information on existing powerlines are identified for small parts of the route at Drawings 689-1-1 - 689-1-4 which include 33kv overhead lines. Such information for the entire route would have been helpful to allow a fuller assessment of likely cumulative impacts.

The predicted visual impacts on residents of residential properties that occur within 500m of the Proposed Development has also been undertaken. The significance of effect is judged as none for 119 properties, minor for 73, minor to moderate for 16 and none for moderate to major or major to substantial. Whilst reserving judgement on the exact numbers and effects, given the broad numbers indicated of the residential properties impacted along the route, the Department considers there is potential for likely significant effects on residential amenity. With outlook from neighbouring properties as one subset of assessing residential amenity the Department considers it important that a Residential Visual Amenity Assessment is carried out to assess the views from properties and in particular where the significance of effect is judged to be minor/moderate or above. Without this it is not possible to conclude that there would not be likely significant effects on residential amenity.

The Department finds material doubt in regard to the number of viewpoints, the visual impacts from the viewpoints, the extent that the viewpoints are characteristic of the entire route, cumulative impacts and the impacts on residential outlook. In applying the precautionary principle, which underlies the EIA Directive, the potential for likely significant landscape and visual effects should be resolved in favour of EIA.

- **Potential Fisheries & Aquatic Ecology Effects**

The NIEA Natural Environment Division (NED) consultee response highlighted Loughs Agency (LA) concerns with the March 2020 **FAESA**, particularly the representation of wild brown trout habitat within the stream crossing points. NED considered the proposal may be capable of having significant impacts on the populations within the designated sites. In response an additional report was prepared (aFAESA September 2020) assessing the potential significance of the effects associated with the construction of the UGCs. The aFAESA sets out the magnitude and significance of potential effects during the construction phase for each river crossing at Table 17. Without mitigation the effects during the construction phase are predicted to be at worst of Major Magnitude and of Very Large Significance. With mitigation, residual effects are reduced to neutral where the net impact will be negligible.

The underground cable construction sequence and construction methodology is covered at Section 6 of the OCEMP. At a number of specific locations the construction of the underground cable will be carried out as per the Activities 1 – 3 but after this will be subject to alternative methodologies referred to in Table 4.1 of the and detailed in Appendix D of the OCEMP

Mitigation measures relating to UGC are covered at 4.6.1 of the Alternative Underground Cable Construction Methodologies for Location Specific Requirements. At the locations ST2, ST3, ST5, ST6, ST7, ST8, ST9, ST10, ST10b and ST 11 as shown in drawing nos. 689-1-1 - 689-1-4, the construction of the underground cable will be carried out as per the methodology Activities 1 – 3. Following this, the alternative methodologies referred to in Table 4.1 and with further detail provide in Appendix D of the OCEMP will be undertaken.

It is noted that HDD will only be used where ground conditions indicate a low risk drilling fluid breakout to the watercourse. In assessing effect it is noted at 6.1.3 of the aFAESA that an appropriate geo-technical assessment will be undertaken to determine the porosity of the stream bed underlying proposed HDD crossings so that the risk of drilling mud break out can be ascertained. Open cut approaches will still be used where the local geology and on-site management is deemed still to pose a risk of rupture or drilling mud run-off. While the obvious immediate effects of an open-cut crossing is sediment entrainment, if the procedure is short-term it will have lower magnitude of impact as compared to a drilling fluid break-out or any surface run-off associated with trenchless crossings.

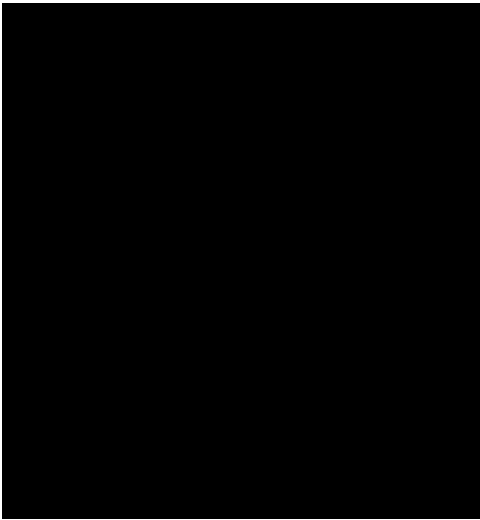
The Department considers that the appropriate methodology to be adopted is reliant on further geotechnical assessment and locations ST5 and ST6 appear to propose HDD with no alternative in advance of further assessment.

As the Department finds some marginal material doubt in this regard and in applying the precautionary principle, which underlies the EIA Directive, the potential for likely significant effects on fisheries & aquatic ecology should be resolved in favour of EIA.

- **Flood Risk**

The Proposed Development including placement of each pole structure has been reviewed against present day 1% AEP floodplains of the watercourses along the route. As it has been demonstrated that none of the pole structures are located within the strategic flood plain (9 in total are located within 5m) it is not considered to represent a flood risk. None of the works involved In either the construction or potential de-commissioning of the development will impact on the flood plain or increase flood risk. The development will not impact on flood risk during the operational phase.

Signed



Date: 10/11/2020