



Oifig an Runaí Aire  
Office of the Minister of State

21 September 2021

Mr. Jerry Mac Eivilly  
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**Ref: HPLG-MoSB-00890-2021**

Dear Mr. Mac Eivilly,

I refer to your correspondence in connection with the recent notification of the Policy Statement on the Importation of Fracked Gas to An Bord Pleanála.

I wish to point out at the outset that your correspondence refers to a specific planning case. Section 30 of the Planning and Development Act, 2000, as amended (the 2000 Act) provides that I am specifically precluded under from exercising any power or control in relation to any particular planning case with which a planning authority or An Bord Pleanála (the Board) is or may be concerned, except in specific circumstances which would not apply in this case. This reply is, therefore, confined to the policy matter you have raised.

An Bord Pleanála was notified of the Policy Statement on the Importation of Fracked Gas on 26 May 2021, further to its approval by Government on 18 May 2021. Under section 143 of the 2000 Act, the Board is obliged statutorily to have regard to:

*“policies and objectives for the time being of the Government, a State authority, the Minister, planning authorities and any other body which is a public authority whose functions have, or may have, a bearing on the proper planning and sustainable development of cities, towns or other areas, whether urban or rural”.*

On the basis of the aforementioned Policy Statement approved by Government, the Board is accordingly obliged to have regard to the policy that:

*“pending the outcome of the review of the security of energy supply of Ireland’s electricity and natural gas systems, it would not be appropriate for the development of any LNG terminals in Ireland to be permitted or proceeded with”.*



Where a developer proposes to undertake development that may fall under the Seventh Schedule of the 2000 Act (relating to projects classified as Strategic Infrastructure Development - SID), the promoter of such prospective SID development must, prior to the submission of a planning application, discuss with the Board the proposal in accordance section 37B of the 2000 Act.

The Board's role in such initial discussions is to determine if the proposed development falls within their remit as SID under the Seventh Schedule of the 2000 Act, or if the proposed development does not qualify as SID, thereby requiring a planning application to be submitted to the relevant local planning authority under section 34 of the Act.

Discussions and decisions made under section 37B of the 2000 Act do not constitute a development consent – as indicated, they are merely intended to determine to which planning authority a subsequent planning application should be submitted. Furthermore, in accordance with section 37C(2) of the 2000 Act, the holding of consultations under section 37B shall not prejudice the performance by the Board of any other of its functions under the 2000 Act, or regulations made under the Act, and cannot be relied upon in the formal planning process or in any legal proceedings.

With regard to the issuing of Ministerial Policy Directives by the Minister for Housing, Local Government and Heritage as referred to in your correspondence, section 29 of the 2000 Act provides that:

*“The Minister may, from time to time, issue policy directives to planning authorities regarding any of their functions under this Act and planning authorities shall comply with any such directives in the performance of their functions”.*

This enables Minister O'Brien to issue Policy Directives on planning policy matters under the 2000 Act. The Policy Statement on the Importation of Fracked Gas was, having also been approved by Government, issued by the Minister for Environment, Climate and Communications; hence, section 143 of the 2000 Act – rather than section 29 - is the relevant legislative provision that applies in this particular case.

It is also important to note that the planning system cannot prohibit any individual from submitting a planning application; however, when undertaking their functions and having regard to the policies of Government, planning authorities and the Board are required to ensure that development proposals are not proceeded with contrary to Government policy. This would include the Policy Statement on the Importation of Fracked Gas.

As previously stated, the Government position as outlined in the Policy Statement is that:



*"pending the outcome of the review of the security of energy supply of Ireland's electricity and natural gas systems, it would not be appropriate for the development of any LNG terminals in Ireland to be permitted or proceeded with".*

This applies even where a planning application is submitted for any such development proposal; in such scenario, any such planning application will not be proceeded with or determined pending the outcome of the mentioned review.

I trust that the foregoing provides the necessary clarification that the procedures undertaken by my Department in notifying the Board of the Policy Statement on the Importation of Fracked Gas were correctly followed in accordance with the relevant provisions of the Planning and Development Act.

Yours sincerely,

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Peter Burke T.D.

Minister for Planning and Local Government

Please note: I am a Designated Public Official under the Regulation of Lobbying Act, 2015