

PETER SWEETMAN & ASSOCIATES

c/o Monica Muller
Rossport South
Ballina
Co. Mayo

Please communicate by email to
sweetmanplanning@gmail.com

EPA
Johnstown Castle
Wexford

2012-03-05

info@epa.ie

RE: P0420-03 Future Pigs Limited Gorteen Lower, Nurney, Co. Kildare,

Dear Sir/Madam

We have been instructed by the Directors of the Swans and the Snails Ltd c/o Monica Muller, Rossport South, Ballina, County Mayo to make a submission to the above application.

It is settled case law of the European Court of Justice that Plans/Projects which exceed the thresholds for Environmental Impact Assessment must be subject to Environmental Impact Assessment.

Having examined the files in the planning reference 10/846 Kildare County Council it is our submission that no Environmental Impact Assessment as required by the following legislation has been carried out.

Article 3 of the EIA Directive 85/337/EEC as amended by 97/11/EC and 2003/35/EC states;

Article 3

The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 11, the direct and indirect effects of a project on the following factors:

- human beings, fauna and flora;
- soil, water, air, climate and the landscape;
- material assets and the cultural heritage;
- the interaction between the factors mentioned in the first, second and third indents.

Planning and Development Amendment) Act 2010.

53.—The Principal Act is amended in Part X by the insertion of the following section before section 172

"171A.—(1) In this Part—

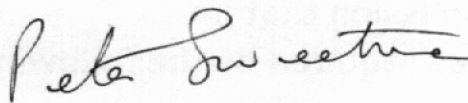
'environmental impact assessment' means an assessment carried out by a planning authority or the Board, as the case may be, in accordance with this Part and regulations made thereunder, that shall identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of the Environmental Impact Assessment Directive, the direct and indirect effects of a proposed development on the following:

- (a) human beings, flora and fauna,
- (b) soil, water, air, climate and the landscape
- (c) material assets and the cultural heritage, and
- (d) the interaction between the factors mentioned in paragraphs (a), (b) and (c).

(2) Subject to this Part, a word or expression that is used in the Part and that is also used in the Environmental Impact Assessment Directive has, unless the context otherwise requires, the same meaning in this Part as it has in the Environmental Impact Assessment Directive."

The case law of the European Court of Justice makes it clear that administrative bodies such as planning authorities and An Bord Pleanála, being emanations of the State, are bound to comply with Community law and if necessary to disapply national law.

.Yours faithfully



Peter Sweetman