



[2025] IEHC 61

THE HIGH COURT
PLANNING & ENVIRONMENT

[H.JR.2023.0000627]

IN THE MATTER OF THE CLIMATE ACTION AND LOW CARBON DEVELOPMENT ACT 2015
(AS AMENDED)

BETWEEN

FRIENDS OF THE IRISH ENVIRONMENT

APPLICANT

AND

THE MINISTER FOR THE ENVIRONMENT, CLIMATE AND COMMUNICATIONS, THE
GOVERNMENT OF IRELAND, IRELAND AND THE ATTORNEY GENERAL

RESPONDENTS

JUDGMENT of Humphreys J. delivered on Friday the 7th day of February 2025

1. In 2020, at the suit of this applicant, the national climate mitigation plan was quashed as being insufficiently detailed: *Friends of the Irish Environment v. The Government of Ireland & Ors* [2020] IESC 49, [2021] 3 I.R. 1, [2020] 2 I.L.R.M. 233, [2020] 7 JIC 3107 (Clarke C.J.) (**Friends I**). The Government has provided considerably more detail in the Climate Action Plan 2023 (**CAP23**), but the applicant returns to try out the previous challenge one more time (we can refer to this case as **Friends II**). The primary question is whether the applicant has evidentially succeeded in demonstrating any illegality notwithstanding the much more granular detail of the present plan.

Facts

2. The first National Mitigation Plan was published in **2017** under the Climate Action and Low Carbon Development Act 2015 (**2015 Act**).

3. The Government published a non-statutory Climate Action Plan in **2019**.

4. The Supreme Court quashed the 2017 Mitigation Plan in **July 2020**.

5. The first climate action plan under the 2015 Act was published in **2021**.

6. In July 2021, the Climate Action and Low Carbon Development (Amendment) Act 2021 (**2021 Act**) was enacted.

7. On **25 October 2021**, the Climate Change Advisory Council (the **CCAC**), in accordance with the Climate Act, submitted its proposed carbon budgets for three five-year periods (2021-2025, 2026-2030 and, provisionally, 2031-2035) to the Minister for the Environment, Climate and Communications (the **Minister**), who laid the carbon budgets before Dáil Éireann on 6th December 2021. On 7th December 2021, the carbon budgets were referred by Dáil Éireann to the Joint Committee on Environment and Climate Action for consideration with a report back date of 7th February 2022. The budgets are:

- 2021-2025: 295 MtCO₂eq;
- 2026-2030: 200 MtCO₂eq; and
- 2031-2035: 151 MtCO₂eq (provisional).

8. These were laid before the Houses of the Oireachtas on 26th February 2022 and took effect on **6th April 2022**.

9. In **April 2022**, the Environmental Protection Agency (**EPA**) published its 2022 National Inventory Report, which updated the 2018 baseline in respect of Land Use, Land-use Change and Forestry (**LULUCF**) from 4,786 ktCO₂ to 6,847.4 ktCO₂.

10. In **June 2022**, the EPA published its 2022 Greenhouse Gas Emissions Projections, which used the EPA's latest emissions projections, showing net LULUCF emissions being projected to rise to 11 MtCO₂eq in 2030. The CCAC stated that the effect of the 2022 projections by the EPA was that "Emissions reductions of 8.4% per annum will now be required."

11. The Government, through the Department of An Taoiseach, issued a press release on **28th July 2022** (updated 29th July and 1st November 2022), announcing a decision by the Government on the setting of the Sectoral Emissions Ceilings (**SECs**) under the first carbon budget programme for the purposes of s. 6C of the Climate Act. The applicant has brought separate judicial review proceedings challenging the SECs bearing High Court Record No. 2022/1082 JR.

12. On **14th September 2022**, the Government produced the SECs under cover of a document entitled "Sectoral Emissions Ceilings: September 2022".

13. The SECs published by the Government do not span the full (domestic economy-wide) sectors of anthropogenic greenhouse gas (**GHG**) emissions, because the LULUCF sector has been explicitly deferred for up to 18 months. In that regard Mr Kierans for the respondents avers (first affidavit):

"32. As a result of a significant development in scientific knowledge of net LULUCF emissions which emerged shortly before the Government's decision on Sectoral Emissions Ceilings, it was necessary to defer the matter of an emissions ceiling for the Land-Use, Land-Use Change and Forestry ('LULUCF') sector. Consistent with their obligations under the Climate Act, the Minister and Government are working to ensure that the matter of an emissions ceiling for the LULUCF sector is finalised as soon as possible and it is intended that this will take place by the end of Quarter 4 of 2023."

14. Ms Osborne for the applicant (affidavit of 31st January 2024) complains that detail on this is lacking but that doesn't nullify the basic point:

"5. Notably at paragraph 32 Mr Kierans identifies an alleged 'significant development in scientific knowledge of net LULUCF emissions' which apparently necessitated a deferment of a Sectoral Emissions Ceiling for LULUCF but does not explain what this is or why it prevented an SEC for LULUCF. He identifies that an SEC for LULUCF will be prepared by Q4 2023 but this, as far as the Applicant is aware, has not occurred as of the date of the swearing of this Affidavit."

15. Mr Kierans then provided further information:

"13. At paragraph 5, Ms Osborne avers that, at paragraph 32 of my First Affidavit, I identified a significant development in scientific knowledge of net LULUCF emissions that necessitated a deferment of a Sectoral Emissions Ceiling for LULUCF but that I did not explain what this is or why it prevented an SEC for LULUCF. However, in this regard, it is important to recognise that, at paragraph 33 of my First Affidavit, I specifically referred to the fact that the Sectoral Emissions Ceilings are the subject of separate judicial review proceedings brought by the Applicant and that I did not therefore propose 'to address in detail the issues regarding the SECs and the deferral of the matter of an emissions ceiling for the LULUCF sector in this Affidavit'. I say and believe that the Applicant's concerns in this regard are properly addressed in those separate proceedings.

14. However, for completeness, the deferral of the Sectoral Emissions Ceiling in respect of LULUCF is due to a significant revision in 2022 of the underlying data concerning the LULUCF sector prepared by the Environmental Protection Agency ('EPA'). This is primarily due to the revision of the emission factor for forestry on peaty or organic soils, which is far higher than previously understood. Accordingly, in April 2022, the EPA published its 2022 National Inventory Report, which updated the 2018 baseline in respect of LULUCF from 4,786 kt CO₂ to 6,847.4 kt CO₂. Moreover, in June 2022, the EPA published its 2022 Greenhouse Gas Emissions Projections, which used the EPA's latest emissions projections, showing net LULUCF emissions being projected to rise to 11 MT CO₂ eq in 2030. Copies of the 2022 National Inventory Report and the 2022 Greenhouse Gas Emissions Projections are contained in Tabs 7-8 of the Book of Exhibits. Accordingly, the matter of a ceiling for the LULUCF SEC sector will be finalised as soon as possible, in consideration of the engagement, consultation and analysis required."

16. The impugned Climate Action Plan 2023 was approved on **21st December 2022** by the Government: <https://www.gov.ie/pdf/?file=https://assets.gov.ie/270956/94a5673c-163c-476a-921f-7399cdf3c8f5.pdf#page=null>.

17. The plan outlines the challenge as follows (p. 15, emphasis added):

"Climate Action Plan 2023 is the second annual update to Ireland's Climate Action Plan 2019. This plan is the first to be prepared under the Climate Action and Low Carbon Development (Amendment) Act 2021, and following the introduction, in 2022, of economy-wide carbon budgets and sectoral emissions ceilings. The plan implements the carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050, as we committed to in the Programme for Government.

Our climate is changing rapidly and is transforming our world. **Since 1850 there has been an increase of 1.1°C in average global temperature, and the increase since 1970 has been faster than in any other 50-year period over the last 2,000 years.** Warming is being propelled by increases in greenhouse gases (GHGs) in the atmosphere mainly produced when we burn fossil fuels and power industrial processes, together with emissions associated with land-use. **These increased GHG emissions are being driven by unsustainable patterns of production and consumption. Today, atmospheric carbon dioxide (CO₂) concentrations are higher than at any time in at least 2 million years, and concentrations of methane (CH₄) and nitrous oxide (N₂O) are higher than at any time in at least 800,000 years.**

Human influence has warmed the atmosphere, ocean and land leading to widespread and rapid change. Projections of future global and regional climate change indicate that continued emissions of GHGs will cause further warming and further changes to our climate.

The science is indisputable, and the effects of climate change are already clear. **As global temperatures increase, the extremes of weather and climate we experience will also increase, and this will lead to increased risks to people and to nature. Scientists warn that without rapid, deep, and sustained reductions in GHGs, global warming will be greater than 2°C above pre-industrial levels and, at current emission rates, could rise to 5°C by the end of the century.** Limiting warming to 1.5°C will substantially reduce losses and damage to people and to ecosystems, although it will not eliminate them altogether.

It is, therefore, essential that we act now to increase the rate of key decarbonisation activities across all sectors of the economy. For the citizen and business, it will involve a significant change in life-styles and business models respectively over the period to 2030. Government policy will have a vital role in supporting and empowering the myriad of individual decisions that will be needed to drive the transition to a low carbon society and economy.

Implementation of the Climate Action Plan will create jobs, new economic opportunities and protect people and the planet. By delivering on this plan, we will secure the future for our children and grandchildren. It's our chance to make the right choice."

18. The associated annex of actions was approved on **7th March 2023** by the Government (<https://www.gov.ie/pdf/?file=https://assets.gov.ie/270057/95ebee81-a143-4371-b515-22fe62a38467.pdf#page=null>).

19. The EPA's Ireland's Climate Change Assessment (ICCA) was published in **January 2024**.

20. The Government has approved, on **21 May 2024**, the most recent climate action plan: Climate Action Plan 2024 (CAP24).

21. A National Long-Term Strategy (Long Term Strategy) for the purposes of s. 4(1)(b) of the 2015 Act was approved by the Government on **24 June 2024**.

22. Significant work is currently going for the preparation and approval of the Climate Action Plan 2025.

Procedural history

23. The proceedings were instituted on 2nd June 2023.

24. On 2nd June 2023, the application for leave to apply for judicial review was opened before Mulcahy J.

25. A motion to admit the proceedings to the Planning & Environment List was granted on 19th June 2023. On the same date, I granted leave to apply for judicial review on standard terms, certifying for two counsel.

26. The State's directions were accepted on 3rd July 2023, and the matter was listed for mention on 6th November 2023.

27. On 6th November 2023, revised directions were agreed and the matter was listed for mention on 22nd January 2024.

28. The State's opposition papers were delivered on 25th October 2023.

29. The applicant filed its replying affidavit on 22nd January 2024 with the State to reply to that.

30. On 4th March 2024, the matter was adjourned to 8th April 2024 for a replying affidavit. The parties were offered a hearing date in September 2024 as part of the Long Vacation pilot project, but they didn't want to take that offer up.

31. On 22nd April 2024, the matter was adjourned to the April List to Fix Dates with the State to file an further affidavit.

32. On 29th April 2024, the matter was adjourned to 24th June 2024 in the List to Fix Dates.

33. The matter was then fixed for hearing on 28th and 29th January 2025 and was heard on those dates.

34. At the outset of the hearing it was agreed that the State could put in a correcting affidavit and the applicant could submit an affidavit exhibiting the 2023 CCAC report. It was also clarified that the State was not pressing any time objection.

35. Judgment was reserved on 29th January 2025.

Relief sought

36. The reliefs sought in the statement of grounds are as follows:

"1. An Order of Certiorari by way of application for judicial review quashing the Climate Action Plan 2023 (approved 21st December 2022 by the Government) and/or associated Annex of Actions (approved 7th March 2023 by the Government).

2. An Order of Mandamus directing the Respondents to adopt forthwith a Climate Action Plan consistent with its obligations pursuant to the Climate Action and Low Carbon Development Act 2015 (as amended) including but not limited to quantification of the emissions reductions expected from the measures in the impugned Climate Action Plan and adoption of such further measures as are necessary, in the light of such quantification, to

achieve the Green House Gas emission reductions sufficient to comply with the First Carbon Budget 2021-2025.

3. Such declaration(s) of the legal rights and/or legal position of the Applicant and (if and insofar as legally permissible and appropriate) persons similarly situated and/or of the legal duties and/or legal position of the Respondents as the court considers appropriate.

4. A Declaration that Sections 3 and 4 of the Environment (Miscellaneous Provisions) Act 2011 and/or that the interpretative obligation set out in Case C-470/16 North East Pylon Pressure Campaign Limited v. An Bord Pleanála whereby in proceedings where the application of national environmental law is at issue, it is for the national court to give an interpretation of national procedural law which, to the fullest extent possible, is consistent with the objectives laid down in Article 9(3) and (4) of the Aarhus Convention, apply to these proceedings.

5. An Order providing for the costs of the application and, where appropriate, an Order pursuant to the Aarhus Convention and/or Part 2 of the Environment (Miscellaneous Provisions) Act 2011 in respect of the costs of this application.

6. An extension of time, if necessary, to seek the reliefs the subject matter of these proceedings pursuant to Order 84, Rule 21(3) of the Rules of the Superior Courts.

7. Such further or other Order as this Honourable Court deems appropriate."

Core ground

37. There is only one core ground of challenge as follows:

"1. Core ground 1: The Climate Action Plan 2023 and Annex of Actions are invalid as they, and the steps leading to their adoption, do not comply with the requirements of sections 3(3), 3(4), 3(5), 4(2)(a), 4(2)(b) and 4(3) of the Climate Action and Low Carbon Development Act 2015 (as amended)."

Issues arising

38. After some discussion with the parties, the issues properly arising under this core ground can be summarised under two headings:

- (i) breach of administrative law requirements or specific requirements under the 2015 Act; or
- (ii) lack of specificity in the published plan as to how compliance with climate objectives and targets will be secured, both in numerical detail and as to the justification for the numbers.

39. One important thing is that the applicant hasn't pleaded any infirmity arising from the failure to set sectoral ceilings in relation to the two sectors which are not covered by ceilings – LULUCF or marine. Nor are the ceilings themselves challenged insofar as they have been adopted. Nor are the background technical reports engaged with at a granular level. Nor was complaint taken as to the incomplete publication of the plan without the annex of actions.

40. Aside from the specific 2015 Act and administrative law points, the overall thrust of the pleaded case is that there is a lack of specifics to enable a reasonable person to form a view as to its adequacy. More specifically, the case as actually argued and presented related to specificity or reasons and lack of justification for the measures, and did not include a substantive attempt to condemn the plan as being unreasonable or substantively flawed by reason of error by the Minister as to the sufficiency of the measures.

Issue I – administrative and statutory requirements

41. There are four issues pleaded under this heading:

- (i) defective consultation of CCAC;
- (ii) lack of reasons in relation to CCAC;
- (iii) failure to take account of EPA; and
- (iv) failure to consider quantification as a relevant issue.

42. As regards **defective consultation with the CCAC**, there are a couple of insuperable problems. First of all, the CCAC was consulted. The applicant hasn't shown any breach of the Act in that regard.

43. Mr Kierans avers in his first affidavit:

"III. THE CARBON BUDGETS AND SECTORAL EMISSIONS CEILINGS

22. As section 3(2) of the Climate Act outlines, there are a number of different measures that the Minister is required to make and submit to Government for approval for the purpose of enabling the State to pursue and achieve the national climate objective. Before turning to the climate action plan, it is necessary to consider the carbon budgets (adopted under sections 6B and 6D) and sectoral emissions ceilings (adopted under section 6C).

23. The Minister wrote to the CCAC on 29 July seeking advice from them on a range of proposals for the regulation as required under section 6A(5A) of the Climate Action and Low Carbon Development Act 2015. In total 10 questions were asked on the CCAC included having three groups or separate carbon budgets. Group 1 -All emissions and removals,

except those from land use and forestry, Group 2 - Land use emissions and removals, Group 3 - Forestry emissions and removals. A copy of the correspondence is in Tab C of the Book of Exhibits.

24. The CCAC replied to the Minister on 3 September on the 10 questions posed, noting that it was 'neutral on the merit of accounting for emissions and removals in three different groups, as this does not impact on Council's mandate to propose carbon budgets for the whole economy'. The CCAC also noted that with regards to emission account for Groups 2 and 3 that 'The Council therefore advises that targets framed in terms of absolute activity levels (e.g. acreage of afforestation or rewetting of organic soils), rather than emissions, may provide improved incentives and certainty for landowners and investors to act. The setting of such activity targets should be calculated based on required mitigation to achieve the national climate objective by 2050, and consistent with the National Biodiversity Action Plan.' A copy of the correspondence is in Tab D of the Book of Exhibits."

44. As the State submits:

"144. Under s. 3(4) of the Climate Act, the Minister shall consult with the Advisory Council for the performance of him of his functions under ss. 4-6, while, under s.3(5) the Government may consult with the Advisory Council for the purpose of the performance by them of their functions pursuant to sections 4-6D.

145. It is clear from the evidence before the Court that the Minister and his officials engage frequently with the CCAC in respect of Ireland's climate action (MK1, §39).

146. In particular, the Minister engaged with the CCAC as part of the process for the preparation and adoption of the carbon budgets. The CCAC's Technical Report on Carbon Budgets directly informed the Minister's preparation of the CAP23, which implemented the Carbon Budgets proposed by the CCAC. The actions and measures set out in the CAP23 reflected the updated emissions reductions pathway required to implement the Carbon Budgets and Sectoral Emission Ceilings (MK1, §39).

147. Examples of the engagement as between the Minister and the CCAC are contained in MK1 and its exhibits: §§23-25; and Tabs C-D."

45. Maybe one could say the Government didn't heed CCAC advice to the maximum extent. That might have been an issue if the challenge had been one to the substantive reasonableness of the plan. But that doesn't get us anywhere under the heading of an allegation of non-consultation.

46. As regards the sidebar plea of **reasons** for not agreeing with the CCAC, the basic problem is the one we will come to under Issue II – the lack of evidence establishing that there was a significant issue that called for reasons. The actual plea is:

"59. The Plan does not identify the precise actions and steps in order to achieve compliance with the 8.4% target identified as necessary by the Council between 2022-2025 and/or the shortfall identified by the EPA for the First Budget Period (and referenced by the Council) nor did it 'identify, quantify and implement significant further measures to put Ireland on track to remain within its carbon budgets'. Nor did the State include any or any adequate reasons such as to allow the public and the Oireachtas to assess how the State had taken into account the advice of the Council and/or provide reasons as to why it decided not to follow that advice."

47. First of all, the 8.4% figure relates to CAP21, prior to the present plan. The applicant hasn't evidentially established the extent to which that was still relevant on foot of additional measures in CAP23. The 8.4% is not a "target". It is a quantification of additional measures on top of CAP21 that would be required to meet the targets. The claim that precise actions and steps, needed to reduce GHG emissions to the requisite level, are not identified is clearly erroneous – steps are identified and the Government is apparently of the view that they will be sufficient.

48. Secondly, the reasons complaint has to be read in that context. The complaint is that the State didn't include reasons (not that failure to do so makes the plan invalid, but lets pass from that) to assess how the CCAC advice was incorporated. That isn't a requirement of the law of reasons or of the 2015 Act as amended in 2021.

49. The final part of the complaint is that the State didn't provide reasons why it decided not to follow that advice. That plausible-sounding point is based on a false factual premise – or at least one that hasn't been established. It hasn't been demonstrated that the Government "decided not to follow" CCAC advice, or even that CAP23 doesn't follow such advice even without a positive decision to disregard that (not a pleaded point, but anyway). Demonstrating a significant shortfall between the logical consequences of the CCAC advice and the additional measures actually adopted, after that advice, in CAP23, would realistically require expert evidence – evidence that is lacking here.

50. As regards **the alleged failure to take account of EPA material**, first of all the factual premise is incorrect. As the State submits:

"155. As set out in the Statement of Opposition, (§58), in preparing CAP23, the Minister did indeed take account of the EPA's 2021–2024 Projections as well as its report entitled 'Ireland's Provisional Greenhouse Gas Emissions for the period 1990-2021' published on 20 July 2022, while also referring more generally to the current trend of emissions, the expected trajectory of future Irish emissions and the need to reverse that trajectory.

156. The fact that the account was taken of the EPA's most recently inventory and projection of future greenhouse gas emissions is evident from a review of CAP23: see, by way of example only, pp. 31, 61; 227; 231; footnote 2 and footnote 56."

51. Obviously, the applicant is seeking by stealth to transform the obligation to have regard to (take account of – same thing) the EPA inventory and projection, into an obligation to comply with that. That impermissibly distorts the statutory language – *Cork County Council v. Minister for Housing, Local Government and Heritage* [2021] IEHC 683 (Unreported, High Court, 5th November 2021) stated as much at §57(i). Indeed the applicant commits the opposite error to that I considered the State had adopted in *Coolglass Wind Farm Limited v. An Bord Pleanála* [2025] IEHC 1 (Unreported, High Court, 10th January 2025), where the issue was trying to read-down a comply-with obligation as an enhanced have-regard-to duty only. I agree with the State in this case - but they can't have it every way obviously.

52. As the State correctly submits here:

"160. In circumstances where, on its face, CAP23 takes account of the EPA, there has been no breach of s.3(3)(b) of the Climate Act."

53. Finally as regards **the alleged failure to consider quantification as a relevant consideration**, the applicant hasn't proved that the State failed to consider the quantification of anything the quantification of which was necessary.

54. The applicant therefore fails on Issue I.

Issue II – lack of specificity – the law

55. To address issue II we need to look at the climate law, its implementation, and the law in relation to reasons which is closely related to the complaint of lack of specifics. We then need to apply that law to the facts here.

56. In addressing the law, it will be appropriate to look first at the 2015 Act, and then at the leading cases *Friends I* and *R. (on the application of Friends of the Earth Ltd) v. Secretary of State for Business, Energy and Industrial Strategy* [2022] EWHC 1841 (Admin), [2023] 1 W.L.R. 225, [2022] 7 W.L.U.K. 234 (Holgate J.), being the two authorities most relied on by the applicant.

57. The 2015 Act in the form considered in *Friends I* has since been heavily amended by the 2021 Act.

58. The legislation is discussed by Andrew Jackson and Orla Kelleher in "Ireland's Second-Generation Climate Act: Still Playing the Laggard During the Climate Crisis?" (2023) 70 *Irish Jurist* 283. The article begins with a useful summary of the climate emergency (notes omitted):

"Global temperatures have been rising since the start of the industrial revolution as a consequence of emissions of greenhouse gases, primarily by developed countries including Ireland. The rise in the global average temperature changes the climate, triggering a vast array of risks of harm to humans and ecosystems including, but not limited to, the risk of loss of life, severe ill-health, extreme weather events, loss of ecosystems and biodiversity, and disrupted livelihoods. Many of these forms of harm are already occurring at the current level of warming of approximately 1.1°C above pre-industrial times. Continued emissions of greenhouse gases will cause further warming and long-lasting changes in all components of the climate system, increasing the likelihood of severe, pervasive and irreversible impacts for people and ecosystems. The more temperatures increase, the higher the risks of harm become.

In his recent report to the United Nations General Assembly, the Special Rapporteur on Human Rights and Climate Change, Ian Fry, described the climate crisis as 'the largest, most pervasive threat to the natural environment and human societies the world has ever experienced'. There has been no shortage of authoritative warnings about the devastating consequences climate change will have, and is already having. The Intergovernmental Panel on Climate Change's (IPCC) recent Sixth Assessment Report warns that any further delay in climate action 'will miss a brief and rapidly closing window of opportunity to secure a liveable and sustainable future for all'. This conclusion is expressed with 'very high confidence'. The report documents the fact that global heating is likely to reach +1.5°C within the next twenty years, and that temperatures will continue to rise thereafter, unless deep reductions in greenhouse gas emissions are implemented immediately.

The nature of the predicament we face is well understood and has been expressed in clear terms by the Intergovernmental Panel on Climate Change in its series of assessment reports since 1990, whose Summaries for Policymakers are agreed upon line-by-line by the 195 member countries, including Ireland. In its Fifth Assessment Report, issued over the course

of 2013 and 2014, the Panel explained the concept of the carbon budget. That is, the fact that the impacts of climate change are caused by the total cumulative emissions of greenhouse gases since the start of the industrial revolution, not by some level of emissions today or in the future. When it comes to limiting the global average temperature increase to a certain level – to +1.5°C, say—a goal to significantly reduce emissions in the long-term is of no value if the carbon budget associated with 1.5°C is depleted in the short-term. High emissions today and tomorrow mean that, in order to stay within the carbon budget associated with +1.5°C, medium term reduction rates would need to be adjusted higher and the date at which any residual emissions are completely cancelled out by removals ('net zero') would need to be adjusted to come earlier.

As the Intergovernmental Panel explains, there is a 'strong, consistent, almost linear relationship' between cumulative CO₂ emissions and the rise in global average temperature. Due to the long persistence of greenhouse gases in the atmosphere, once a certain temperature increase is reached (and in the absence of 'negative emissions', discussed below), it will remain at that level and will not decrease on any timescale relevant to human society. The temperature increase can only be stopped at a given level if no additional emissions are added to the atmosphere (i.e. if any residual emissions are balanced by removals—so-called 'net zero' emissions). Much has been made in recent years of the possibility of 'carbon dioxide removal' (CDR) (or 'negative emissions') in order to help achieve 'net zero' by compensating for residual greenhouse gas emissions from sectors that cannot completely decarbonise or that may take a long time to do so, or even to reduce global temperatures after peak warming is reached. As the Intergovernmental Panel on Climate Change explains:

[i]f global net negative CO₂ emissions were to be achieved and be sustained, the global CO₂-induced surface temperature increase would be gradually reversed but other climate changes would continue in their current direction for decades to millennia ([expressed with] high confidence). For instance, it would take several centuries to millennia for global mean sea level to reverse course even under large net negative CO₂ emissions.

However, as the Panel also explains, the use of carbon dioxide removal at scale is in any event 'subject to multiple feasibility and sustainability constraints': many carbon dioxide removal techniques remain at the conceptual stage, while some could 'compound climate-related risks to biodiversity, water and food security, and livelihoods, especially if implemented at large scales.'

The almost linear relationship between cumulative CO₂ emissions and projected global temperature change is well illustrated in a figure from the Synthesis Report of the Intergovernmental Panel on Climate Change's Fifth Assessment Report, which is set out as Figure 1 below. This relationship (see in particular the graph in the top right of the figure) and the long persistence of greenhouse gases give rise to the concept of a 'forever' carbon budget associated with any given temperature increase: that is, if we are striving to limit the global temperature increase to 1.5°C, we know the total cumulative amount of carbon that can be put into (and allowed to remain in) the atmosphere. In its Sixth Assessment Report, issued in 2021, the Intergovernmental Panel on Climate Change estimated global emissions since the pre-industrial period to the end of 2019 at approximately 2390 gigatons—i.e. billions of tons—of CO₂, leaving a remaining carbon budget of just 400 gigatons of CO₂ globally for there to be a 67% probability of limiting heating to 1.5°C. Since the remaining budget is being depleted by emissions of approximately 42 gigatons of CO₂ per year, that left—as of 2020—less than ten years of emissions at that level before the carbon budget associated with 1.5°C would be entirely used up."

59. The significant change effected by the 2021 Act is described as follows:

"The climate law and policy landscape evolved rapidly both during and in the wake of Climate Case Ireland. The direct result of Friends of the Irish Environment's victory in the case was that the National Mitigation Plan was quashed—which meant that a new, legally-compliant plan was needed. Interestingly, though, the Government did not await the outcome of the case before developing a new plan: it adopted a new Climate Action Plan in 2019 and sought to rely on this new plan in defending the Climate Case Ireland proceedings, arguing that the 2017 National Mitigation Plan was a 'living document' and that the Court ought not to quash this Plan as inadequate because the Court should take into account subsequent developments such as the 2019 Climate Action Plan. The Supreme Court saw through this, agreeing with Friends of the Irish Environment's argument that the 2019 Climate Action Plan was in any event non-statutory: '[it] is not a plan in the sense in which that term is used in the 2015 Act. It has not been, for example, through the public consultation process which the 2015 Act mandates.' In any event, the pressure created by Climate Case Ireland

was clearly one important contributor to the production of this new, more ambitious 2019 Climate Action Plan, just two years after the 2017 National Mitigation Plan had been adopted. As a leading practitioner commented at the time, 'I have no doubt that the case was chief among motives for urgent delivery by the Government of its Climate Action Plan in June [2019].'

Amongst the matters promised in the Climate Action Plan of 2019 was a significantly improved Climate Act. This responded to, amongst other things, the recommendation of the Joint Oireachtas Committee on Climate Action (established to consider the Citizens' Assembly's report and recommendations entitled 'How the State can make Ireland a Leader in Tackling Climate Change') that 'new legislation be enacted ... providing a new legal framework for tackling climate change [...] [which] should include the setting of legally binding [greenhouse gas] emissions targets.' To this end, the Climate Action and Low Carbon Development (Amendment) Act 2021 was ultimately adopted, having been 'drafted in response to the recommendations of the Supreme Court', according to the responsible Minister.

In summary, the 2021 Act overhauled the Climate Act 2015, inter alia setting a net zero target year of 2050 and an interim target of reducing emissions by 51% by 2030 compared to the 2018 level. The revised Act imposes a general obligation on the Minister, the Government and the Climate Change Advisory Council to carry out various of their functions under the Act consistently with inter alia the objectives of the UNFCCC and Paris Agreement. It provides for a national long term climate action strategy to be adopted, to cover at least the next thirty years. It provides for a series of five-year carbon budgets to be made (grouped into fifteen-year carbon budget programmes). It provides for 'sectoral emissions ceilings' to be set within the limits of the carbon budgets. It provides for the making of an annually-updated national climate action plan, addressing the short to medium-term (in contrast to the long term climate strategy) as well as local authority climate actions plans. It provides for the making of a national adaptation framework and sectoral adaptation plans. It has reformed and strengthened the role of the Climate Change Advisory Council. Finally, it has introduced an obligation on various public bodies to act consistently with the most recent approved climate action plan, the most recent approved national long term climate action strategy, the most recent approved national adaptation framework and approved sectoral adaptation plans, the furtherance of the national climate objective, and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State."

60. The authors also usefully refer to the legislative history:

"As originally proposed, the Climate Action and Low Carbon Development (Amendment) Bill 2020 contained a weak obligation requiring the Minister, the Government and the Climate Change Advisory Council merely to 'have regard to' various matters in performing certain functions under the Act. Matters to be had regard to included the ultimate objective of the UNFCCC (i.e., preventing dangerous anthropogenic interference with the climate system) and the steps specified in Article 2 of the Paris Agreement to achieve that objective (i.e., the temperature goal and implementation to reflect equity and the principle of common but differentiated responsibilities and respective capacities). During pre-legislative scrutiny, it was argued that these obligations should be strengthened to become 'consistent with' obligations. The Government took this recommendation onboard in producing the 2021 version of the Bill, and the Act as finally adopted was ultimately strengthened in this way.

In consequence, s.3(3) of the revised Act requires the Minister and the Government when performing their respective functions in relation to inter alia the national long term climate action strategy, the climate action plan, carbon budgets, and sectoral emissions ceilings to do so in a manner consistent with inter alia the ultimate objective specified in Article 2 of the UNFCCC and the steps specified in Articles 2 and 4(1)113 of the Paris Agreement. Section 6A(9) imposes an equivalent duty on the Climate Change Advisory Council, as well as an obligation to 'have regard to climate justice,' when preparing carbon budgets.

Sections 3(3) and 6A(9) of the revised Act therefore function as a conduit making the international law commitments to equity and common but differentiated responsibilities and respective capacities a matter of national climate law. Sections 3(3) and 6A(9) require the Minister, Government, and Climate Change Advisory Council when preparing and adopting relevant climate policy instruments (namely, the long-term strategy, carbon budgets, sectoral emissions ceilings and climate plans) to act consistently not just with the +1.5°C temperature goal but also with the climate justice principles of equity and common but differentiated responsibilities and respective capacities that underpin that goal. The implications of the incorporation of these principles into national climate law have yet to be

fully teased out by the Irish courts, although the occurrence of this judicial exercise is likely only a matter of time.”

61. That history is a point perhaps equally relevant to the *Coolglass* question insofar as it reinforces the intention of the enacted 2021 Act to do more than impose a have-regard-to duty.

62. The authors go on to strongly criticise virtually all aspects of implementation of the legislation, including the plan at issue here, although obviously for present purposes I am not expressing a view on any of that in a context where I am confined to the pleaded grounds.

63. Hogan J. quoted the long title of the 2021 Act in *An Taisce – The National Trust for Ireland v. An Bord Pleanála* [2022] IESC 8, [2022] 2 I.R. 173, [2022] 1 I.L.R.M. 281 at §2: “An Act to provide for the approval of plans by the Government in relation to climate change for the purpose of pursuing the transition to a climate resilient, biodiversity rich and climate neutral economy by no later than the end of the year 2050 and to thereby promote climate justice ...” The applicant relies on Hogan J.’s comment that (§107) “... the proper scope of the EIA Directive should not be artificially expanded beyond this remit and, in particular, it should not, so to speak, be conscripted into the general fight against climate change by being made to do the work of other legislative measures such as the 2021 Act.” I agree with the applicant that the logical converse of that is that legislative measures such as the 2021 Act must do the work required of them.

64. Section 6A provides for a carbon budget programme to be developed by the CCAC:

“6A. (1) A carbon budget, consistent with furthering the achievement of the national climate objective, shall be proposed by the Advisory Council, finalised by the Minister and approved by the Government for the period of five years commencing on 1 January 2021 and ending on 31 December 2025 and for each subsequent period of five years (in this Act referred to as a ‘budget period’).

(2) A carbon budget shall be made for three sequential budget periods so that, at any one time, there is a series of three carbon budgets which have effect under section 6B (in this Act referred to as a ‘carbon budget programme’).

(3) The carbon budget relating to the third budget period in a carbon budget programme shall be made in draft form and may be amended in accordance with section 6B (in this Act referred to as a ‘provisional carbon budget’).

(4) The Advisory Council shall prepare and submit a proposed carbon budget programme to the Minister as soon as may be after the coming into operation of section 9 of the Climate Action and Low Carbon Development (Amendment) Act 2021.

(5) The first two carbon budgets proposed by the Advisory Council shall provide for a reduction in greenhouse gas emissions such that the total amount of annual greenhouse gas emissions in the year ending on 31 December 2030 is 51 per cent less than the annual greenhouse gas emissions reported for the year ending on 31 December 2018, as set out in the national greenhouse gas emissions inventory prepared by the Agency.

(5A) (a) The Government shall make regulations for determining the greenhouse gas emissions to be taken into account, and the manner of calculating and accounting for such emissions (including any reductions), for the purpose of—

(i) the first 2 carbon budgets referred to in subsection (5), and

(ii) every carbon budget thereafter.

(b) The Government shall, when making regulations under paragraph (a), have regard to the rules applied by the European Union in relation to the matters referred to in paragraph (a).

(5B) The Government may make regulations to specify the base year in relation to the reduction of greenhouse gas emissions for budget periods after 31 December 2030.

(6) Not less than 12 months prior to the expiry of the first carbon budget in a carbon budget programme, the Advisory Council shall prepare and submit to the Minister—

(a) a proposed carbon budget in respect of the budget period following the third budget period in the carbon budget programme, and

(b) proposed amendments, if any, to the provisional carbon budget.

(7) The Advisory Council shall provide the reasons for its proposed carbon budget programme under subsection (4), a proposed carbon budget under subsection (6)(a) and any proposed amendments to a provisional carbon budget under subsection (6)(b), in writing to the Minister.

(8) Not more than 30 days after submitting a proposed carbon budget programme, a proposed carbon budget or any proposed amendments to a provisional carbon budget to the Minister under this section, the Advisory Council shall publish the proposed carbon budget programme, the proposed carbon budget or any proposed amendments to the provisional carbon budget, as the case may be, in such manner as the Advisory Council considers appropriate.

(9) The Advisory Council shall—

- (a) carry out its functions under this section in a manner—
- (i) that is consistent with the ultimate objective specified in Article 2 of the United Nations Framework Convention on Climate Change done at New York on 9 May 1992 and the matters specified in subparagraphs (i) and (ii) of section 3(3)(a), and
 - (ii) which takes account of—
 - (I) the most recent national greenhouse gas emissions inventory and projection of future greenhouse gas emissions, prepared by the Agency,
 - (II) relevant scientific advice, including with regard to the distinct characteristics of biogenic methane,
 - (III) international best practice on the reporting of greenhouse gas emissions and removal, and
 - (IV) in so far as practicable, the need to maximise employment, the attractiveness of the State for investment and the long term competitiveness of the economy,
- (b) have regard to climate justice when carrying out its functions under this section, and
- (c) the Advisory Council shall comply with regulations under subsection (5A) when carrying out its functions under this section.
- (10) (a) The Minister shall, when preparing a carbon budget and a sectoral emissions ceiling, recommend to Government to decide that a Minister of the Government may comply with the carbon budget, and a sectoral emissions ceiling for which that Minister of the Government has responsibility, by the removal of greenhouse gas emissions.
- (b) Where the Government approves the recommendation of the Minister under paragraph (a), the Minister of the Government concerned shall, when complying with the carbon budget and the sectoral emission ceiling for which that Minister of the Government has responsibility, comply with regulations made by the Government under subsection (11).
- (11) (a) The Government shall make regulations for the purpose of—
- (i) determining how the removal of greenhouse gas emissions may be taken into account, and in particular the method of calculating and accounting for such removals, including the base year to be applied to such removals, when complying with a carbon budget and a sectoral emissions ceiling,
 - (ii) specifying which removals may be used for the purposes referred to in subparagraph (i), and
 - (iii) determining the mechanism by which such removals are to be effected.
- (b) When making regulations under paragraph (a) the Government shall have regard to the rules applied by the European Union in respect of the matters specified in subparagraphs (i) to (iii) of paragraph (a)."

65. On foot of the carbon budget programme the Government must prepare sectoral emissions ceilings:

"Sectoral emissions ceiling

6C. (1) The Minister shall prepare, within the limits of the carbon budget, the maximum amount of greenhouse gas emissions that are permitted in different sectors of the economy during a budget period (in this Act referred to as a 'sectoral emissions ceiling') and different ceilings may apply to different sectors.

(2) The sectors of the economy to which each sectoral emissions ceiling shall apply shall be determined from time to time by the Government.

(3) The Minister shall, when preparing a sectoral emissions ceiling, consult with such Ministers of the Government as he or she considers appropriate.

(4) The Minister shall, as soon as may be after a carbon budget takes effect under section 6B, finalise and submit each sectoral emissions ceiling to the Government for approval.

(5) The Government may—

(a) approve, or

(b) approve, subject to such modifications as they consider appropriate, a sectoral emissions ceiling.

(6) Where a provisional carbon budget is amended under section 6B or a carbon budget is revised under section 6D, the Minister shall—

(a) consult with such Ministers of the Government as he or she considers appropriate, and

(b) revise, if appropriate, a sectoral emissions ceiling for the budget period concerned.

(7) Where the Minister revises a sectoral emissions ceiling under subsection (6)(b), he or she shall, as soon as may be, submit the revision to the sectoral emissions ceiling to the Government for approval.

(8) The Government may—

(a) approve, or

(b) approve, subject to such modifications as they consider appropriate,

the revision to the sectoral emissions ceiling.

(9) A Minister of the Government shall, in so far as practicable, in the performance of his or her functions, comply with the sectoral emissions ceiling that applies to the sector for which that Minister of the Government has responsibility.

(10) For the purposes of performing their respective functions under this section, the Minister and the Government shall have regard to the matters specified in paragraphs (a) to (n) of section 4(8)."

66. The Government must then work within that carbon budget programme and the sectoral emissions ceilings when preparing a plan such as the one impugned here:

"Climate action plan and national long term climate action strategy

4. (1) The Minister shall, to enable the State to pursue and achieve the national climate objective—

(a) prepare an annual update to the Climate Action Plan 2019 to Tackle Climate Breakdown, published by the Minister on 17 June 2019 (in this Act referred to as a 'climate action plan'), and

(b) prepare, not less frequently than once every 5 years, a national long term climate action strategy (in this Act referred to as a 'national long term climate action strategy').

(2) The Minister shall, when preparing a climate action plan under subsection (1)(a)—

(a) ensure that the plan is consistent with the carbon budget programme,

(b) set out a roadmap of actions, to include—

(i) sector specific actions that are required to comply with the carbon budget and sectoral emissions ceiling for the period to which the plan relates,

(ii) sector specific actions that are required to address any failure, or projected failure, to comply with the carbon budget and sectoral emissions ceiling for the period to which the plan relates, and

(iii) other actions and measures that are reasonably necessary to support Government policy on climate change, including measures to inform, and promote dialogue with, the public regarding the challenges and opportunities in the transition to a climate neutral economy,

and

(c) consult with—

(i) any other Minister of the Government as he or she considers appropriate, including each Minister of the Government who has responsibility for sector specific actions, and

(ii) the public and such persons as he or she considers appropriate.

(3) The roadmap of actions referred to in subsection (2)(b) shall—

(a) specify measures that, in the Minister's opinion, will be required for the first budget period in a carbon budget programme,

(b) set out an overview of the policies and, to the extent feasible, measures, that, in the Minister's opinion, will be required for the second budget period in a carbon budget programme, and

(c) outline potential policies that, in the Minister's opinion, may be required for the third budget period in a carbon budget programme.

(4) The Minister shall, in each year, commencing with the year 2021, submit a draft of the climate action plan to the Government for approval.

(5) The national long term climate action strategy shall specify the manner in which it is proposed to achieve the national climate objective and shall include—

(a) projected reductions in greenhouse gas emissions and the enhancement of sinks, for a minimum period of 30 years,

(b) projected reductions in greenhouse gas emissions in each of the relevant sectors determined by the Government under section 6C and the enhancement of removals in such sectors, for a minimum period of 30 years, and

(c) an assessment of potential opportunities for achieving reductions in greenhouse gas emissions in the sectors referred to in paragraph (b).

(6) When preparing the national long term climate action strategy the Minister shall—

(a) ensure that the strategy is consistent with the carbon budget programme,

(b) have regard to Article 15 of Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, and

(c) consult with—

(i) any other Minister of the Government as he or she considers appropriate, and

(ii) members of the public and such persons as he or she considers appropriate.

(7) The Minister shall, as soon as may be after a draft national long term climate action strategy has been prepared, submit the draft national long term climate action strategy to the Government for approval.

(8) For the purposes of performing their respective functions under this section, the Minister and the Government shall have regard to the following matters:

(a) the need to deliver the best possible value for money consistent with the sustainable management of the public finances and to maximise, as far as practicable, the net benefits to society taking into account the impact of greenhouse gas emissions;

(b) the need to promote sustainable development and restore, and protect, biodiversity;

(c) relevant scientific or technical advice;

(d) climate justice;

(e) any recommendations or advice of the Advisory Council;

(f) the social and economic imperative for early and cost-effective action in relation to climate change;

(g) in so far as practicable, the need to maximise employment, the attractiveness of the State for investment and the long term competitiveness of the economy;

(h) the fact that the means of achieving a climate neutral economy and other measures to enable the State to pursue the national climate objective may not yet be fully identified and may evolve over time through innovation, evolving scientific consensus and emerging technologies;

(i) the role of behavioural change on the part of individuals and different sectors of society in supporting the Government to pursue the national climate objective and the policies and measures required to effect such change;

(j) the risk of substantial and unreasonable carbon leakage as a consequence of measures implemented by the State to pursue the national climate objective;

(k) the requirement for a just transition to a climate neutral economy which endeavours, in so far as is practicable, to—

(i) maximise employment opportunities, and

(ii) support persons and communities that may be negatively affected by the transition;

(l) the protection of public health;

(m) the National Planning Framework (or, where appropriate, the National Spatial Strategy);

(n) the special economic and social role of agriculture, including with regard to the distinct characteristics of biogenic methane;

(o) where a national long term climate action strategy has been approved under this section, the most recent approved national long term climate action strategy;

(p) the 2019 Climate Action Plan or, where a climate action plan has been approved under this section, the most recent approved climate action plan;

(q) where a national adaptation framework has been approved under section 5, the most recent approved national adaptation framework;

(r) where sectoral adaptation plans have been approved under section 6, the most recent approved sectoral adaptation plans.

(9) The Government may—

(a) approve, or

(b) approve, subject to such modifications as they consider appropriate, a climate action plan submitted to them under subsection (4) or a national long term climate action strategy submitted to them under subsection (7).

(10) The Minister shall, as soon as may be, cause an approved climate action plan and an approved national long term climate action strategy to be laid before the Houses of the Oireachtas.

(11) A Minister of the Government, shall, in so far as practicable, perform his or her functions in a manner consistent with the most recent approved climate action plan and the most recent approved national long term climate action strategy.

(12) In this section—

'carbon leakage' means the transfer, due to climate policies, of production to other countries with less restrictive policies with regard to greenhouse gas emissions;

'National Planning Framework' has the meaning assigned to it in section 20A of the Planning and Development Act 2000 ;

'National Spatial Strategy' means the 'National Spatial Strategy: 2002-2020' published by the Government on 28 November 2002, or any document published by the Government which amends or replaces that Strategy."

67. The word "roadmap" as a statutory term is unusual although not unprecedented. The State helpfully directed my attention to the Oxford English Dictionary (**OED**) definition (online version):

"1. A map that shows the roads of a country or area giving basic local information of interest to a traveller; (esp. in later use a map designed especially for motorists, now often published in book form as a road atlas and giving details of roads, such as classification, number, etc. Also in extended use.

1741-

2. figurative. Frequently with to, for. A means of bringing about or reaching something; an outline or representation of something, used as a guide. Now often: spec. a plan or strategy intended to achieve a particular (political) goal, as road map to (also for) peace, etc.

1897-"

68. The primary meaning of roadmap is a geographical wayfinding document to allow one to navigate from a destination to a terminus *via* waypoints.

69. The legal meaning may not be exactly the same but it is likely to be analogous – a plan to identify the path from one situation to another possibly *via* intermediate situations. It has a strong suggestion of a definite pathway rather than merely setting goals. I appreciate that the OED definition can be read in horoscope fashion as being vague – "outline ... guide" – but the thrust and central meaning is a definite pathway that can be followed.

70. The annex of actions appears best classified as an element of the roadmap of actions which is part of the plan required by sub-s. (2)(b). Thus the plan was incomplete until publication of the annex. Hence, wisely, the State didn't press any time objection. Whether the first part could lawfully have been published without the second isn't a pleaded ground.

71. While considerable reliance was put by both sides on *Friends I*, we need to be a bit cautious with simply reading across from that case because of the fact that the statutory provisions have changed significantly in the meantime.

72. The applicant submits as follows:

"63. Friends of the Irish Environment [2020] IESC 49, [2021] 3 IR 1 concerned a challenge to the national mitigation plan under the 2015 Act prior to its amendment. The Respondents argued that the national mitigation plan is a living document, which the Respondents are again attempting as a justification for a lack of specificity. Clarke C.J. stated (at § 117) that 'the real question at issue is as to whether the Plan itself gives any real or sufficient detail as to how it is intended to achieve the NTO. In that regard, a number of factors must be taken into account.'

64. Firstly, under the heading of 'Specificity' he held (at § 118) that:

'...it is necessary to reach some overall conclusion as to the level of specificity which the Act requires. It seems to me that the starting point for a consideration of that question must be to consider the purpose of the 2015 Act as a whole. The public participation element of that purpose is, of course, met by the public consultation process set out in s. 4(8). But it is to the transparency element of the purpose of the legislation as a whole that the specificity mandated by s. 4 is directed. The purpose of requiring the Plan to be specific is to allow any interested member of the public to know enough about how the Government currently intends to meet the NTO by 2050 so as to inform the views of the reasonable and interested member of the public as to whether that policy is considered to be effective and appropriate.'

65. While this paragraph refers specifically to section 4(8), it is significant that Clarke C.J.'s finding that section 4 as a whole mandates transparency, and so this finding is not limited to section 4(8).

66. The Minister's deponent (Mr Kierans' 1st affidavit October 23) para 55 – says 'Even if it were technically feasible to provide the level of in-depth analysis and quantification contended for by the Applicant (which is denied), this would alter the nature of the CAP 2023. It would also render the plan significantly less accessible and comprehensible to the general public.' That approach appears to be at odds with the approach of the Supreme Court in the Climate Case just quoted.

67. At § 119 Clarke CJ stated:

'What the public thinks of any plan and what the public might do about it if they do not like a plan is a matter for the public to consider. But the 2015 Act requires that the public have sufficient information from the Plan to enable them to reach such conclusions as they wish. On that basis, it seems to me that the level of specificity required of a compliant plan is that it is sufficient to allow a reasonable and interested member of the public to know how the government of the day intends to meet the NTO so as, in turn, to allow such members of the public as may be interested to act in whatever way, political or otherwise, that they consider appropriate in the light of that policy.'

68. Clarke C.J. also examined the kind of policies which the national mitigation plan suggested needed to be followed in order to meet the National Transition Objective, and having considered what the national mitigation plan said, he found (at § 125) that it did

seem to be 'reasonable to characterise significant parts of the policies as being excessively vague or aspirational'.

69. This was due in part to parts of the agriculture chapter involving carrying out 'further research' into areas such as beef genomics and the behavioural barriers which influence farmers' participation in environmental schemes. This chapter of the Plan also contains somewhat vague proposals to '[c]ontinue to improve knowledge transfer and exchange to farmers by developing a network across State agencies and relevant advisory bodies' and to '[f]urther develop the range and depth of sustainability information collected for beef, dairy and other agriculture sectors'. The very same criticisms are made by the Applicant in respect of the same sector in the CAP.

70. Clarke C.J.'s critical findings are to be found at §§127 to 130 that are worth quoting in full:

'I accept that the legislation clearly contemplates that knowledge will evolve and that the detail of the Plan will become more fixed as time moves on. However, that does not seem to me to prevent there being a clear present statutory obligation on the Government, in formulating a plan, to at least give some realistic level of detail about how it is intended to meet the NTO. Some general indication of the sort of specific measures which will or may be required needs to be given. The legislation does, after all, require that a plan "specify" how the NTO is to be met. For the reasons already set out, it seems clear that s. 4 of the 2015 Act requires that the measures necessary to achieve the NTO must be specified not only for the first five years but for the full length of the period then unexpired up to 2050. The level of specificity for the latter years may legitimately be less but there must be, nonetheless, a policy identified which does specify in some reasonable detail the kind of measures that will be required up to 2050. The fact that some of those measures may come to be adjusted over time because of developments in knowledge, data or technology does not alter the fact that a best current estimate as to how the NTO is going to be achieved needs to be made and not left to sometime in the future. As noted earlier, this is not a five-year plan but rather ought to have been a 33-year plan.

In my judgment the Plan falls a long way short of the sort of specificity which the statute requires. I do not consider that the reasonable and interested observer would know, in any sufficient detail, how it really is intended, under current government policy, to achieve the NTO by 2050 on the basis of the information contained in the Plan. Too much is left to further study or investigation. In that context it must, of course, be recognised that matters such as the extent to which new technologies for carbon extraction may be able to play a role is undoubtedly itself uncertain on the basis of current knowledge. However, that is no reason not to give some estimate as to how it is currently intended that such measures will be deployed and what the effect of their deployment is hoped to be. Undoubtedly any such estimates can be highly qualified by the fact that as the technology and knowledge develops, it may prove to be more or less able to achieve the initial aims attributable to it.

However, that is no reason not to indicate how and when particular types of technology are currently hoped to be brought on board. If it proves possible to achieve more than might currently be envisaged then, doubtless, other elements of the Plan can evolve in a way which may place a lesser burden on certain sectors. If it proves that the technology is less useful than currently envisaged, then the burden on some sectors may have to increase. But the public are entitled to know what current thinking is and, indeed, form a judgement both on whether the Plan is realistic and whether the types of technology considered in the Plan are appropriate and likely to be effective. In my view, a reasonable and interested observer would not really have a sufficient view of just how it is currently hoped that such measures might contribute towards achieving the NTO to form a considered judgement.

On that basis, I would hold that the Plan does not comply with the requirements of the 2015 Act and, in particular, s. 4. On that basis I would hold that the Plan should be quashed on the grounds of having failed to comply with its statutory mandate in that regard.'

71. Significantly the Supreme Court were addressing a 2015 Act which had not been altered by the 2021 amendments and was significantly less mandatory and directory in its requirements with section 4(2) of the Act requiring only, for example that the national mitigation plan (as it was then known) specify 'the policy measures that, in the opinion of the Government, would be required in order to manage greenhouse gas emissions and the removal of greenhouse gas at a level that is appropriate for furthering the achievement of the national transition objective'

72. The Applicant relies on this analysis for the following propositions:

a) The requirement for specificity in the Act is, as the same suggests, requirement for specificity, and,

b) That the measures identified in the Climate Action Plans must be measured and quantified such as to allow the public to understand that the measures contained therein are realistic”

73. I am not clear what the point in para. 72(a) is as it does not seem to make a whole lot of sense. But the point in 72(b) is I think basically correct – the level of quantification in the plan or accompanying it must be such as to enable the public to understand if the measures are realistic.

74. The National Mitigation Plan quashed in *Friends I* was issued in 2017 under the original unamended s. 4(1) of the 2015 Act – <https://www.gov.ie/en/publication/48d4e-national-mitigation-plan/>. The State’s website describes it as follows (emphasis added):

“Published on 19 July 2017, the National Mitigation Plan represented an initial step in transitioning Ireland to a low carbon, climate resilient and environmentally sustainable economy by 2050. This whole-of-government Plan drew on the perspectives and responsibilities of a range of government departments, and reflected the central roles of key ministers responsible for electricity generation, the built environment, transport and agriculture.

The Plan included over 100 individual actions for ministers and public bodies to implement and begin the process of developing medium to long term mitigation choices for the next and future decades.

Environmental analysis was undertaken as part of the development of the Plan and information on how environmental considerations and the views of consultees and stakeholders influenced the Plan are set out in the Environmental Statement and the final Natura Impact Statement.”

75. The essential conclusion about this plan was at para. 9.2 *per* Clarke C.J.:

“I also conclude that the 2015 Act, and in particular s.4, requires a sufficient level of specificity in the measures identified in a compliant plan that are required to meet the National Transitional Objective by 2050 so that a reasonable and interested person could make a judgement both as to whether the plan in question is realistic and as to whether they agree with the policy options for achieving the NTO which such a plan specifies. The 2015 Act as a whole involves both public participation in the process leading to the adoption of a plan but also transparency as to the formal government policy, adopted in accordance with a statutory regime, for achieving what is now the statutory policy of meeting the NTO by 2050. A compliant plan is not a five-year plan but rather a plan covering the full period remaining to 2050. While the detail of what is intended to happen in later years may understandably be less complete, a compliant plan must be sufficiently specific as to policy over the whole period to 2050.”

76. While s. 4 has been significantly amended, as has the Act overall, and while there is no longer provision for what was described as a national transition objective (NTO), it is still relevant as to whether “a reasonable and interested person could make a judgement ... as to whether the plan in question is realistic ...”.

77. Operationalising that, how could a reasonable and interested person make a judgement as to whether a plan is realistic? It can’t mean the provision of enough information to ensure the elimination of all doubt. That’s an impossibility. As Jacob Bronowski noted, “human knowledge is ... an unending adventure at the edge of uncertainty” (*The Ascent of Man* (London, BBC, 1973), p. 367).

78. However we shouldn’t water down the obligation to give detail either. The State submits: “82. ... it is respectfully submitted that – on any reasonable analysis - CAP23 and the Annex of Actions provides interested observers with a sufficient view of how it is currently hoped that such measures might contribute towards achieving the NCO to form a considered judgment.”

79. This incorrectly extrapolates from language in *Friends I* (para. 6.47) regarding innovative technology to refer to the plan generally. The plan has to do more than demonstrate how it is hoped that measures might contribute to the objectives. It has to ensure compliance with carbon budgets and explain how that might be the case. The concept of carbon budgeting didn’t exist in 2015 but rather was introduced post *Friends I* by the 2021 Act.

80. To that extent the State’s reliance on *Friends I* is misplaced:

“88. In this regard, Clarke CJ in his dicta in *Friends of the Irish Environment* was clear that, where the public are unhappy with a particular plan, it is a matter for them to vote and elect a government that produces plans more in accord with their wishes. While the 2021 Act introduces an enhanced legal framework for climate action in the State, it nonetheless recognises that there are very important policy dimensions and choices involved in climate action.”

81. While that point is valid insofar as it goes, the 2015 Act has since been amended to require that the plan will “ensure” compliance with budgets. So it now goes well beyond forming a view on

the basis of which the interested citizen will vote. To put it another way, the information required isn't just so that citizens can form a political judgement. The plan must actually *ensure* compliance with the goals set out in the legislation.

82. The applicant at one point seemed to float an extreme interpretation of "ensure" to exclude measures the outcome of which is uncertain. But that is unrealistic – the outcome of a huge number of measures is going to be uncertain. "Ensure" has to be given a meaning in context, which means ensure with an appropriately high level of confidence as opposed to with scientific certainty. Even the Intergovernmental Panel on Climate Change (**IPCC**) only speaks of "very high confidence" as the best it gets in terms of prediction (see e.g. Kause, A., Bruine de Bruin, W., Persson, J. *et al.* "Confidence levels and likelihood terms in IPCC reports: a survey of experts from different scientific disciplines" *Climatic Change* 173, 2 (2022) <https://link.springer.com/article/10.1007/s10584-022-03382-3>). One way to achieve high confidence is to allow for a margin for error and a safety net, in other words to make provision for more reductions than the budget requires, to allow for a shortfall in implementation. The lack of safety net provision isn't a pleaded complaint so I don't need to consider it further.

83. Nonetheless, as amended in 2021, what is at issue under the 2015 Act is an exercise in carbon budgeting, and the very concept of a budget is meaningless without numbers.

84. The overall carbon budget programme is expressed in numerical terms. It is then broken down by sector also in numerical terms. What are then required are "sector specific actions that are required to comply with the carbon budget and sectoral emissions ceiling for the period to which the plan relates".

85. Many measures don't directly move the numbers, but are still necessary – so be it. Other measures can't yield an exact impact calculable in advance – but what can be provided is a reasonable educated estimate. Thus, reference to targets and potential isn't unlawful in itself. That's inherent in the exercise, but one must make a reasonable attempt to quantify what is considered likely to happen.

86. Without the need to exhaustively set out the jurisprudence, the law in relation to reasons, both as to measures addressed to individuals and general measures, can be summarised as follows:

- (i) for individual decisions (*Connelly v. An Bord Pleanála* [2018] IESC 31, [2021] 2 I.R. 752, [2018] 2 I.L.R.M. 453, [2018] 7 JIC 1701 (Clarke C.J.), *Balscadden Road SAA Residents Association Limited v. An Bord Pleanála* [2020] IEHC 586, [2020] 11 JIC 2501 (Unreported, High Court, 25th November 2020)) and measures of general application that affect individual rights (*Christian and Others v. Dublin City Council (No. 1)* [2012] IEHC 163, [2012] 2 I.R. 506), the decision-maker must give the main reasons on the main issues;
- (ii) for measures of general application made under a statute that expressly or implicitly requires a particular level of reasons, for example by mandating public consultation, such reasons as are so required, for example such as will enable a participant in a consultation process to evaluate the measure (*Friends I*); and
- (iii) for measures of general application not made under a statute, or made under a provision that does not require reasons, and that do not affect individual rights, there is no requirement to give any reasons (for example, the enactment of primary law or most statutory instruments, the issuing of non-statutory policies).

87. Viewed in this way, the decision in *Friends I* can simply be seen as a special case of category (ii).

88. As regards the decision in *R. (on the application of Friends of the Earth Ltd) v. Secretary of State for Business, Energy and Industrial Strategy* [2022] EWHC 1841 (Admin), [2023] 1 W.L.R. 225, [2022] 7 W.L.U.K. 234, Holgate J. said at para. 248:

"However, there may be one distinction to be drawn with the Irish legislation. That requires the plan to 'specify' the manner in which it is proposed to achieve 'the national transition objective' and other matters. Hence, the judgment of the Supreme Court of Ireland focused on whether, in the court's opinion, the national plan satisfied the statutory requirement for 'specificity'. No such language appears in the CCA 2008. So I will confine myself to considering the core requirements of 'explanation' and 'quantification' which derive from the obligation in the CCA 2008 to 'set out' proposals and policies 'for meeting the carbon budgets'."

89. While the legislation has changed since then, and while I don't think it's anything much more than a debating point to read a whole lot into the fine distinction between specification and setting out, I agree with the basic point that the Irish legislation involves the concept of quantification. This has been strongly reinforced by the concept of budgeting introduced in 2021.

90. Holgate J. held in that case, applying the UK legislation:

"193. Accordingly, I conclude that s.13(1) of the CCA 2008 does not require the Secretary of State to be satisfied that the quantifiable effects of his proposals and policies will enable

the whole of the emissions reductions required by the carbon budgets to be met. The obligation in s.13(1) does not have to be satisfied by quantitative analysis alone.”

91. The situation here would be slightly differently phrased. The 2021 Act amendments that require budgeting *do* require the impacts on emissions to be fitted into a budget and hence all quantified, but I do accept Holgate J.’s basic point that (even allowing of course for differences in legislation) some impacts can’t be precisely quantified. The decision-maker has to make an educated and informed estimate, reasonably open to them on the material, as to the impacts of the proposed policy measure. So ultimately there needs to be quantification even if some of it is necessarily estimated based on an informed assessment of the outcome of measures that are primarily qualitative in character.

92. In written submissions the state also referred to *R (Friends of the Earth Ltd and others) v. Secretary of State for Energy Security and Net Zero* [2024] EWHC 995 (Admin), [2024] P.T.S.R. 1293, [2024] 5 W.L.U.K. 22 (Sheldon J.) (*Friends of the Earth II*):

“85. The United Kingdom Government then revised the Net Zero Strategy and published it in March 2023 (‘the Carbon Budget Delivery Plan’) (Tab 16). In February 2024, the same claimants brought judicial review proceedings and in May 2024 in *R (Friends of the Earth Ltd and others) v. Secretary of State for Energy Security and Net Zero* (‘Friends of the Earth No. 2’) [2024] EWHC 995 (Admin) Mr Justice Sheldon held that the revised Net Zero Strategy – the Carbon Budget Delivery Plan – was also unlawful. After a lengthy precis of the information relied upon by the Secretary of State, the Court identified the statutory provisions (§70). The Court held that the Secretary of State had mistakenly made their decision to adopt the Carbon Budget Delivery Plan on the basis that all emissions reductions measures would be delivered in full in circumstances where that was not the correct factual position and the Minister’s own strategy and briefing materials identified the (obvious) possibility that measures might not be successful and if they were, might not be as successful as predicted in terms of GHG reductions and that the conclusions in respect of achieving reductions was (§126) ‘simply not justified by the evidence’.”

93. That is a valid principle – administrative law generally requires that a decision must be reasonable based on the material before the decision-maker, bearing in mind that it is up to an applicant to prove that this has not been complied with. But that isn’t the way the present case was pleaded, evidenced or argued.

94. Insofar as the State relies on the principle *impossibilium nulla obligatio est*, I agree with that principle of course and there is a limit to the level of detail that anything can provide. Fortunately the 2015 Act as amended does not involve an implicit obligation to give reasons at a level that would trigger that prohibition. The State’s frequent and comfortingly familiar invocation of a reasonableness standard could lull one into a mistaken conclusion that the only options are reasonableness or impossibility. But the Act demands a fair bit more than a merely reasonable plan – it must be a plan that *ensures compliance with carbon budgets and sectoral ceilings*. That involves qualifications, balancing the no-policy-change baseline projected forward with the impact of new policy measures projected forward. How that is presented is something the Government has a fair bit of discretion over, as long as the substance is there. This may involve estimation but it can’t involve a purely narrative, qualitative effort for any element of the budget. A budget ultimately is meaningless without a bottom line, and a bottom line requires that all elements be quantified, even at an estimated amount. Total certainty as to future compliance with budgets and ceilings is definitionally impossible so whether to phrase the test as reasonable certainty, a very high degree of confidence, or something else, can legitimately be left to another case. But obviously I agree with the point made by the applicant that hopes are not enough and that that the road to climate hell is paved with good intentions.

Implementation of relevant law relating to climate plans

95. The carbon budget programme was adopted by the Dáil on 6th April 2022 (<https://www.oireachtas.ie/en/debates/debate/dail/2022-04-06/11/>), and likewise by the Seanad, see also <https://www.climatecouncil.ie/carbonbudgets/>:

- 2021-2025: 295 MtCO₂eq;
- 2026-2030: 200 MtCO₂eq; and
- 2031-2035: 151 MtCO₂eq (provisional).

96. The sectoral emissions ceilings were adopted by the Government later in 2022: <https://www.gov.ie/en/publication/76864-sectoral-emissions-ceilings/>. These are incomplete due to the absence of ceilings for LULUCF and the marine, but the applicant hasn’t challenged that. Chapters 12 to 16 and 19 of the plan correspond to the various ceilings, with the issues in circular economy (ch. 19) coming under the heading of “other” in the sectoral ceilings.

97. By way of an example, built environment – residential provides for a sectoral ceiling of 29 MtCO₂eq for 2021-2025. There is no total for the ceilings from all sectors due to lack of entries

for LULUCF. Importantly, a final annual figure of 5 MtCO₂eq is given for 2025, the last year of the period.

98. The plan was adopted following an extensive consultation process, as averred to by Mr Kierans:

"35. By way of background, preliminary work on the CAP 2023 commenced prior to the approval of the SECs in late July 2022. Following the approval of the SECs, the Department initiated sectoral Working Groups comprising representatives from relevant, multi-stakeholder Departments and Agencies, as well as relevant experts including members of the Climate Action Modelling Group. These Working Groups, alongside other forms of inter-Departmental engagement, worked on updating the climate action plan in line with the Carbon Budgets and SECs that had been adopted and in light of the latest reports regarding climate, energy and the State's emissions. McKinsey & Company provided technical support in the preparation and delivery of the updated plan, including through the provision of technical analysis and modelling to assist in developing and assessing potential actions and measures to achieve emissions reductions consistent with the SECs and Carbon Budgets. The process was also informed by the National Dialogue for Climate Action, an extensive programme of citizen engagement to support and inform the Department's wider climate action work, as well as by a Call for Expert Evidence, which sought evidence-based submissions from research organisations and experts that were then circulated to the relevant policy teams and Working Groups. As the drafting process progressed, meetings were held between senior officials and Ministers to discuss final elements of the plan.

36. A draft of the CAP 2023 was thereafter submitted to Government on 21 December 2022 and was approved by Government and published on 21 December 2022."

99. The plan itself outlines some of the consultations engaged in:

"9.1 State of Play

9.1.1 Engagement in Climate Action in 2022

A comprehensive programme of engagement activities and research was delivered under the National Dialogue on Climate Action (NDCA) in 2022 which included:

- Climate Conversations 2022 (CC22) involving a ten-week long online public consultation engaging 4,300 people, 10 focus groups involving over 80 people most vulnerable to the transition to carbon neutrality, 15 workshops with Public Participation Networks, and 10 in-depth expert interviews with subject matter experts in areas including social and behavioural research and citizen and stakeholder engagement. The programme was designed based on best practice research method and the findings analysed employing robust methodologies;
- Two National Climate Stakeholder Forum (NCSF) events, which took the form of deliberative workshops and reached over 300 stakeholders from a wide range of organisations to discuss climate action challenges and solutions;
- The first National Youth Assembly on Climate (NYAC) engaging over 40 young people, between the ages of 12 and 24, to capture their suggestions on how young people in Ireland can deliver climate action. A report was published in November;
- The Environmental Protection Agency (EPA) Climate Change in the Irish Mind (CCIM) study provided nationally representative data on the attitudes and behaviours of 4,000 members of the Irish public in response to climate change;
- The EPA Climate Conference 2022, Creating Ireland's Climate Future, examined the vision for a climate-neutral and resilient Ireland by 2050, and how that vision will be achieved in terms of strategic planning for our built and natural environments;
- The EPA Climate Change Lecture Series 2022 presenting on the role of the public, consumers and politicians as enablers of climate action, and on the risks posed by climate change and those associated with investing in climate adaptation;
- The National Social and Behavioural Advisory Board (NSBAG) met three times to provide ongoing expert insight into research to help inform policy."

100. Modelling including from the NTA, Eirgrid and McKinsey was prepared at the time of preparation of the plan: a version dated January 2023 is public – <https://www.gov.ie/en/publication/7bd8c-climate-action-plan-2023/>.

101. Section 5.3 refers to sectoral ambition, and includes a helpful table 5.2 headed "CAP23: The proposed emission ceiling scenarios require a step change in technology ramp up across sectors". This sets out a series of measures each of which has a key performance indicator (**KPI**) for 2025 and 2030. The KPIs are phrased in a range of different metrics rather than in terms of the ultimate metric of impact on GHG emissions.

102. The annex of actions sets out a further series of specific measures, identifying in each case:

- (i) the action;
- (ii) steps necessary for delivery;
- (iii) output;

- (iv) timeline;
- (v) lead department/ entity; and
- (vi) stakeholders.

103. Two particular documents before the Government as of 7th March 2023 when the annex of actions was published were relied on:

- (i) The EPA's Greenhouse Gas Emissions Projections 2021-2040 (<https://www.epa.ie/publications/monitoring--assessment/climate-change/air-emissions/irelands-greenhouse-gas-emissions-projections-2021-2040.php>): Figure 2 and Figure 5: as identified by the EPA, the State is forecast to fail to comply with the First Carbon Budget by a significant extent.
- (ii) The CCAC 2022 annual review (<https://www.climatecouncil.ie/councilpublications/annualreviewandreport/Annual%20Review%202022%20Web%20Version.pdf>) notes GHG emissions in 2021 fell by only 1.3% on GHG emissions from the base year of 2018 which means that much more dramatic reductions are required from 2022-2025 than originally anticipated. The CCAC identified a reduction of 8.4% per annum as being required in order to comply with the First Carbon Budget.

104. The EPA projections are summarised by them with the following (emphasis added):
"Key Findings

Urgent implementation of all climate plans and policies, **plus further new measures**, are needed for Ireland to meet the 51 per cent emissions reduction target and put Ireland on track for climate neutrality by 2050.

Ireland can meet its non-ETS EU targets of a 30 per cent emission reduction by 2030 (compared to 2005) assuming implementation of planned policies and measures and the use of the flexibilities available. These include a land use flexibility using the Climate Action Plan 2021 afforestation rate of 8,000 hectares per annum.

The gap between the 'Existing Measures' and 'Additional Measures' scenarios in these projections highlights that **the current pace of implementation will not achieve the change required to meet the Climate Act targets. Faster implementation of 'Additional Measures' is needed to close this gap.**

Carbon budgets proposed by the Climate Change Advisory Council have recently been approved by the Oireachtas for the periods 2021-25, 2026-30 and 2031-35. The Projections highlight that **there is currently a significant gap between the budgets and the projected emissions over the budget periods. This gap will need to be addressed very quickly if Ireland is to stay within the Carbon Budgets.**

Under the Additional Measures scenario, renewable energy is projected to increase to 78 per cent of electricity generation by 2030 with emissions from the Energy Industry decreasing by 10 per cent per annum from 2021-30. Increased coal use from 2021 and growing energy demand, including from data centres, threaten to negatively impact achievement of National targets, particularly for the first carbon budget period.

Under the Existing Measures scenario emissions are projected to increase by 1.9 per cent over the 2020-2030 period. A methane emissions reduction of almost 30 per cent is required to achieve a 22 per cent reduction in Agriculture emissions compared to 2018, as committed to in the 2021 Climate Action Plan. The sector must clearly set out how this will be achieved to address uncertainty regarding its ability to deliver even the lower end of the range of its sectoral targets within the ever-shortening timeframe to 2030.

The end of COVID travel restrictions is projected to result in transport emissions increasing by 18-19 per cent from 2020 to 2022. Emissions from the sector are projected to reduce to 39 per cent below 2018 levels by 2030 and achieve a 31.7 per cent renewable transport share if the additional measures in plans and policies are implemented, this includes over 940,000 electric vehicles on the road by 2030, increased biofuel blend rates and measures to support more sustainable transport.

Spending more time at home due to hybrid working and the increasing cost of fossil fuels highlights the need for our houses to become far more efficient. Implementing currently planned measures for the installation of 680,000 heat-pumps by 2030 as well as retrofitting 500,000 homes is projected to achieve a 41.5 per cent reduction in residential emissions in 2030 (compared to 2018)."

105. The applicant relies on figure 2 which is worth looking at in the report. It is introduced thus:
"Carbon Budgets

The Climate Action and Low Carbon Development (Amendment) Act 2021 provides for the establishment of carbon budgets in support achieving Ireland's climate ambition. The 51% target is the primary constraint on carbon budgets over the course of the first two budget

periods ending on 31 December 2030, relative to 2018. The provisional carbon budget proposed for 2031 to 2035 continues the trajectory towards climate neutrality by 2050.

Three Carbon budgets have been proposed over the period 2021 to 2035, with sectoral budgets set to be determined in mid-2022. Figure 2 shows the annualised carbon budgets and the extent to which these budgets are exceeded with the latest projected emissions data, both in the With Existing Measures and higher ambition With Additional Measures scenarios."

106. Figure 2 suggests that even the WAM (with additional measures) scenario significantly exceeds the budgets up to 2030, albeit by less than the WEM (with existing measures) approach.

107. However at p. 10 the EPA says:

"Ireland's 2030 target under the EU's Effort Sharing Regulation (ESR) on greenhouse gas reduction is a 30% reduction of emissions compared to 2005 levels by 2030. The ESR includes the sectors outside the scope of the EU Emissions Trading System (ETS). The latest EPA projections show that currently implemented measures (With Existing Measures) will achieve a reduction of 10% on 2005 levels by 2030, significantly [*sic*] short of the 30% reduction target. If measures in the higher ambition (With Additional Measures) scenario are implemented [*sic*], the 30% reduction target by 2030 can be achieved. The ESR also sets out binding emission reduction targets for Member States for the period 2021-2030. The non EU-ETS sectors are shown in Figure 3 below. The Projections show that Agriculture and Transport emissions dominate the non-ETS sector and together they account for 73% and 76% of emissions in 2021 and 2030 respectively"

108. The conclusion is not phrased entirely clearly but is as follows (emphasis added, notes omitted):

"6. Conclusion

The two scenarios presented in these latest Projections highlight two key messages in relation to Ireland's emissions reduction targets.

Firstly, the With Additional Measures scenario, which captures **many of** the expected impacts of measures described in the Climate Action Plan 2021, highlights that **those measures**, if fully implemented, can achieve compliance with the EU Effort Sharing Regulation target. Secondly, the With Existing Measures scenario, which attempts to reflect the likely impact of the measures for which resources and commitments are currently in place, highlights the need for swifter action to implement those measures that have already been identified in plans.

The Working Group III contribution to the IPCC's sixth assessment report (Climate Change 2022: Mitigation of Climate Change) launched in April 2022 strongly highlighted that the world is at a crossroads in relation to limiting global warming to 1.5 degrees. The message is that it is 'now or never' in terms of implementing effective mitigation measures if that target is to be achieved. The report also highlighted that globally an 'implementation gap' exists when comparing those policies [*sic*] that have been implemented and those contained within countries Nationally Determined Contributions for 2030, a similar situation to that presented for Ireland in these Projections.

These latest Projections highlight the pace and scale of action needed to reduce greenhouse emissions in time to contribute to arresting global temperature rise. Implementation has consistently lagged behind planning. The message from the IPCC is that no further delays are possible to avoid the worst climate outcomes.

Urgent implementation of all climate plans and policies, **plus further new measures**, are needed for Ireland to meet the 51 per cent emissions reduction target and put Ireland on track for climate neutrality by 2050"

109. The words "many of" imply that the words "those measures" refer to the WAM measures proposed, not to the CAP21 measures alone. That is reinforced by the reference to further new measures.

110. The CCAC annual review 2022 states as follows:

"Executive Summary

The mission of the Climate Change Advisory Council is to provide independent evidence-based advice and recommendations on policy to support Ireland's Just Transition to a biodiversity-rich, environmentally sustainable, climate-neutral and resilient society. It is also tasked with assessing the progress made towards this goal via an Annual Review.

This 2022 Annual Review considers the progress of Ireland's national climate goals in 2021 – the first year of the Carbon Budget 2021-2025 – and its structure reflects the delineation of the Carbon Budget 2021-2030 into sectoral ceilings. It updates our understanding of Ireland's resilience to climate change through climate change mitigation and adaptation actions and presents a review of progress in respect of national and EU targets at a national and sectoral level.

Since the publication of the Council's last Annual Review much has changed. The illegal and unprovoked invasion of Ukraine by Russia has triggered a global energy crisis, serious concerns for global food security and high levels of inflation with implications, particularly, for the poor. The crisis has highlighted the EU and Irish dependence on imported fossil fuels, along with exposure to volatile and high commodity prices, both of which can have implications for energy security. The Council expressed its concerns regarding the crisis to the Heads of Government by letter in April 2022 and further supports its position with the following recommendations:

Carbon budgets can be met, but require significant and early action consistent with a Just Transition

In April of this year the Houses of the Oireachtas formally adopted the Council's proposals for the first carbon budget programme covering the period 2021-2035. The carbon budgets for the first two periods allow for 295Mt CO₂ eq in the first period and 200Mt CO₂ eq in the second period.

The announcement of sectoral emissions targets for 2030 in July was a welcome milestone, but the targets announced do not provide all of the necessary clarity in terms of how the carbon budgets are allocated at a sectoral level, how the overall target of 51% reduction by 2030 will be met, or how the Land Use Sector will be included in meeting the targets. As presently expressed **the quantified emissions reductions only amount to a reduction of 42% excluding the Land Use Sector and are therefore not consistent with the objective in the Climate Action and Low Carbon Development (Amendment) Act. Whilst these targets are a useful starting point the targets will need to be revised upwards** and monitored closely in the light of experience.

The Climate Action Plan 2023, due later this year, will need to set out the precise actions and steps that will need to be followed in order to align with the ambition of the Carbon Budgets which were adopted by the Oireachtas in April. The EPA projections published in early June give the best early indicator of the likelihood that compliance will be achieved.

- Provisional national total emissions in 2021, the first year of the first carbon budget period, are estimated to have totalled 69.3Mt CO₂ eq, reflecting a reduction of 1.3% on emissions in the base year 2018. This accounts for about 23.5% of the emissions allowance for the first period and means that there will be a requirement for emissions to fall more quickly over the period 2022-2025 than originally anticipated if the first budget is to be met. **Emissions reductions of 8.4% per annum will now be required.**
- Current EPA projections to 2030 indicate that the first two carbon budget targets present a significant challenge based upon existing and planned measures, with estimated gaps to target of 40-55Mt CO₂ eq in the first carbon budget period and 77-127Mt CO₂ eq in the second period.

In light of the **still considerable (and as yet not fully explained) distance to target** it is critical that **planning of new measures** and implementation of already announced actions across all sectors **is advanced urgently** if we are to close **the substantial gap between ambition and action** and meet our national and EU obligations.

A Just Transition must take account of the livelihoods impacted by the increasing pressure placed on carbon-intensive economic activities, as well as the need to ensure that poorer households do not bear the burden of policies to reduce emissions, and that the benefits of transition and Government support are shared equitably. Whilst the focus of the Just Transition Commissioner so far was on the Midlands, many broader actions already taken have helped to facilitate Ireland's Just Transition nationally. Focused policy which redistributes carbon tax receipts towards those in fuel poverty and actions that prioritise those same households for retrofit and energy efficiency upgrades can play an important role. The Just Transition Commissioner emphasised the core role of Regional and Spatial Economic Strategies, strategic partnerships and a focus on consultation and collaboration. NESG are also exploring the pathway for a Just Transition for rural communities and the Agriculture sector. Ultimately for the transition to be successful, these efforts need to cross all sectors and regions, both urban and rural, and further coordinated efforts must be made to proactively identify vulnerable communities and practical solutions."

111. The applicant didn't however attempt to evidentially identify whether the new measures being called for by the EPA and CCAC above and beyond CAP21 could be said to have been provided by CAP23. Hence I don't think that the reliance on these documents gets it anywhere on the evidence.

112. A number of documents post-dating the plan were also relied on, although hindsight commentary and analysis is normally of limited import in addressing whether the plan was lawfully adopted.

113. Page 3 of the EPA synthesis report 2024 (<https://www.epa.ie/publications/monitoring--assessment/climate-change/irelands-climate-change-assessment-synthesis-report.php>) states as follows:

"Having peaked in 2001, Ireland's greenhouse gas emissions have reduced in all sectors except agriculture. However, Ireland currently emits more greenhouse gases per person than the EU average. A legal basis for deep, rapid and sustained national emissions cuts now exists, although current policy and action remain insufficient to meet these aims. The pathway forwards is clearer for energy, transport and the built environment than for agriculture and land use. For all sectors there are many challenges to overcome."

114. At p. 18:

"In 2021, Ireland legislated for 5-yearly carbon budgets and sectoral emissions ceilings that set a limit on the amount of greenhouse gas emissions that can be released over defined periods. These budgets are consistent with a target for a 51% reduction in total greenhouse gas emissions (including the LULUCF sector) by 2030, compared with 2018, and a long-term national climate objective of climate neutrality by 2050 at the latest. Ireland is not on track to meet these statutory targets, and current policies are not sufficient to meet the carbon budgets of 2020–2025 and 2025–2030. Greenhouse gas emission estimates for 2021 and 2022 indicate that 47% of Ireland's first carbon budget has been emitted within 40% of the budget's time frame."

115. The CCAC annual review 2023 includes at p. 26:

"The analysis presented in the Carbon Budget Technical Report, supporting the Council's proposals for carbon budgets, acknowledged that the implementation of new and enhanced policies and measures would take time to impact emissions. This is particularly because most of the necessary interventions involve investment and, of its nature, investment takes time to deliver. However, a failure to take action early has negatively impacted the prospects for meeting the cumulative target to 2030.

The Council will reflect seriously on the implications of failure to remain within the carbon budgets, especially with respect to the additional burden this will place on future carbon budgets, particularly the third carbon budget, 2031–2035, and the emissions reduction pathways consistent with the National Climate Objective to 2050.

The Government published the agreed sectoral emissions ceilings for each sector except Land Use, Land Use Change and Forestry (LULUCF), for the two carbon budgets periods, 2021–2025 and 2026–2030, in September 2022. However, the Government has acknowledged that these ceilings do not assign responsibility for all the necessary emission reductions required to meet the constraints of the overall carbon budgets. The large unallocated reduction for the period 2025–2030 is a cause for concern. The difficulty in assigning these additional reductions arises from the challenge of identifying the specific policies and measures that can be implemented within this timeframe. Nevertheless, it is urgent that the unallocated reductions are assigned, attached to relevant sectors and policies, and an accelerated programme of implementation put in place. NACP 2023 includes a commitment to address the unallocated emission reductions by the end of 2023. Any extension of this deadline dilutes policy signals and would significantly delay progress on keeping within the carbon budgets.

A major barrier to Ireland meeting its objective of reducing greenhouse gas emissions at rates consistent with the carbon budgets is the current regulatory systems applying in many sectors. It is the responsibility of Government to deal with this; however, NACP does not respond adequately to these barriers. This is not to underestimate the challenges in addressing these issues, which can involve national and EU legislative reform and perhaps raise other legal questions.

The Council strongly recommends that urgent action is taken to reform and adequately resource licensing and regulatory systems across all levels of Government to help secure the changes in infrastructure needed to support the level of investment required to enable the reduction in emissions at the pace required by 2030. A number of these licensing and regulatory concerns are explored further in relevant sectoral chapters. The general recommendation requires authorities to consider when these barriers arise and address them. For example, section 5.4.1 outlines that many existing wind farms are due to seek an extension of their planning consent or to repower their on-site technology, and the Council is recommending that a simplified and swift permit-granting process for these lifetime extension and repowering applications must be implemented to guard against a loss of existing onshore capacity."

116. At p. 84, the CCAC says in relation to agriculture:

"Specific targets for the implementation of measures within NACP 2023 are a welcome policy development. However, a large portion of the (~45%) mitigation actions expected to be

implemented by 2025 are not adequately described in NCAP 2023, particularly those related to the impact of diversification of farming activities and the analysis supporting the measures has not been published. Therefore, EPA projections do not reflect the full level of ambition in NCAP 2023, and analysis cannot reveal whether implementation is progressing in line with expectations.”

Application of the law to the facts – Issue II

117. So the relevant test here is whether the level of reasons (*i.e.*, level of specificity) is sufficient to enable a participant in the public consultation process to evaluate the plan in terms of whether it is “realistic” as put in *Friends I* – realistic in this context means whether it is likely to actually meet the statutory objectives.

118. Since the statutory objectives come in the form of allocation of a budget, the only conceivable way in which the adequacy of the plan can be assessed is by way of a budget breakdown of the various measures, that can be added up to form a total figure of emissions. The whole concept of a budget implies quantification in a common currency – and the bottom line currency is GHG emissions. Everything else – all other key performance indicators – must translate into that ultimately.

119. So far so good for the applicant. The punchline comes in relation to applying this to the facts – for that purpose the applicant has to demonstrate that there are insufficient numbers in the plan.

120. As noted above, an obvious point is that some measures aren’t capable of being quantified because they don’t in themselves reduce emissions, yet they are necessary. The State pleads that as regards:

“... supporting, enabling, policy, regulatory or legislative actions which do not in and of themselves mitigate emissions but which are essential in creating the environment for such mitigation, it would not be technically feasible to identify the potential abatement figure for each action.”

121. That’s all well and good but it doesn’t really get the State anywhere in itself. The quantifiable (including estimable) measures still have to be quantified (including estimated).

122. The problem for the applicant is that in terms of the pleadings, the complaint of lack of specificity isn’t accompanied by any meaningful engagement with such specificity as the plan contains. To put it another way, the applicant lies back passively, tries to re-run *Friends I*, and complains about what is not there, but doesn’t take up the material actually offered by the State and try to quantify how far it advances things - an exercise that would normally require expert evidence.

123. The plan contains eight separate tables as to abatement measures, each with quantification by sector, and all apart from the one relating to LULUCF expressed in terms of the required budgetary metric of GHG emissions in MtCO₂eq:

- (i) table 12.5 electricity;
- (ii) table 13.5 industry;
- (iii) table 14.5 residential;
- (iv) table 14.6 commercial/ public sector;
- (v) table 15.6 transport;
- (vi) table 16.6 agriculture;
- (vii) table 17.6 LULUCF; and
- (viii) table 19.5 other emissions.

124. It’s not up to me to start adding these up and comparing them with sectoral or overall targets and ceilings. The applicant, who bears the onus of proof, hasn’t even attempted that.

125. One might note that the abatement figures for the envisaged measures are only valid if the impact of actions independent of policy change is also factored in, for example demographic growth. Thus for example a policy change that reduces emissions by say 1 MtCO₂eq in a given sector isn’t much good in reducing the bottom line if the natural growth of the sector independently of and unaffected by that policy would increase emissions by 1 MtCO₂eq. The sectoral ceiling figures for 2025, for example, are meaningless unless the Government accounts for both the impacts on emissions of the proposed policy measures and the impacts on emissions of matters independent of those measures – such as population change or the like – what I would call the no-policy-change scenario. But what the State calls it and how they present it is up to them in the first instance.

126. However the applicant hasn’t pleaded that specific problem, and certainly hasn’t tackled it in evidential terms. Also for avoidance of doubt the State claims that the effect of demographics and so forth is accounted for in the modelling documentation but I don’t think we even get to that point given the lack of detailed expert interrogation of the State’s material by the applicant.

127. Nor has the applicant pleaded that the plan is defective by reason of not specifying the degree of confidence with which the Government anticipates the result. That point illustrates that it can’t be enough that the State thinks that each individual measure will probably achieve emissions

savings. The achievement of the *total* emissions targets must be at least probable based on the measures taken together. 100 measures each with a 51% percent probability of achieving the individual saving allocated to each individual measure results in a virtually zero chance that the total bottom line saving will be achieved, even though such an approach sounds superficially plausible to an innumerate *habitué* of the common law system.

128. So I have to conclude that given the level of quantification on the face of the plan, the applicant hasn't discharged the onus of proof to show that a reasonable person would be unable to evaluate whether the plan is realistic. That doesn't mean that a future applicant couldn't interrogate the material before the Government in detail and produce expert evidence to the effect that such material wouldn't reasonably justify the conclusions. But that isn't this case.

129. Ultimately, the complaint that the figures aren't justified doesn't get off the ground when the applicant hasn't made any real attempt to engage with the material that the plan *does* contain. Yes in one sense I can see the argument that even if the numbers add up, a reasonable person would need to have some reasonable sense of the justification for the numbers in order to know whether the plan is realistic. But that complaint needs to be firmly situated in the context of detailed engagement with the totality of information that is there, not just whining that the plan could contain more. The applicant hasn't done that, and certainly hasn't brought forward expert evidence to show that the purported justifications do not reasonably support the numbers proposed. Rather there are fairly generalised complaints about the lack of detail. For example at para. 50 of the statement of grounds the applicant pleads about the plan:

"50. It does not undertake any exercise to demonstrate that those measures, even if all delivered, will be sufficient to ensure that the Plan is consistent with the Carbon Budget Programme."

130. That bald statement is simply incorrect. The word "any" is a major exaggeration.

131. In relation to agriculture the applicant pleads:

"23. Further measures are identified as 'Mobilise recommendations of the Food Vision sectoral groupings and support land use diversification options for livestock farmers, such as anaerobic digestion, forestry and tillage to incentivise voluntary livestock reductions'

24. This will lead to anticipated savings of 1.3 MtCO₂eq per annum from 2021-2025. No explanation or justification is provided for this or whether these, or indeed any, emissions reductions have resulted thus far from the implementation of the Food Vision sectoral groupings given that Ireland is nearly half-way through its First Carbon Budget period."

132. The argument that there is no justification fails to take into account the supporting material, particularly pp. 95 to 106 of the McKinsey modelling. The applicant hasn't attempted to engage with that. It isn't up to the court to start interrogating the modelling to see how it relates to the figures in the plan. There isn't anything wrong in terms of the law on reasons with reasons being found in an accompanying document (even bearing in mind the possibility that the accompanying material may differ in the fine detail but may give a sufficient justification for the ultimate decision). As I noted in *Killegland Estates Ltd v. Meath County Council* [2022] IEHC 393, [2022] 7 JIC 0106 (Unreported, High Court, 1st July 2022), as to where reasons can be found, the law has never been unduly prescriptive. Where reasons are required for a decision, there is no obligation to state reasons in the decision itself, either expressly or by reference to documentation that is expressly referred to. Nor is there an obligation to set out the reasons in a single document if they can be found in some other identified document. Even if no document is identified, reasons can be gathered from other documents which are not expressly referred to or from the overall context and circumstances, as the Supreme Court has found in *Connelly v. An Bord Pleanála* [2018] IESC 31, [2021] 2 I.R. 752, [2018] 2 I.L.R.M. 453 (Clarke C.J.), citing Fennelly J. in *Mallak v. Minister for Justice, Equality and Law Reform* [2012] IESC 59, [2012] 3 I.R. 297, [2013] 1 I.L.R.M. 73 and *EMI Records (Ireland) Limited & Ors v. The Data Protection Commissioner* [2013] IESC 34, [2014] 1 I.L.R.M. 225 (Clarke J.), to the same effect. So a plan of this kind isn't invalid if somehow it doesn't have enough detail, as long as the detail if required is available in some other accessible way.

133. Indeed one might more generally say that an analogue approach that demands spelling out of reasons in a single given document, in any context, appears embarrassingly out of date in a digital age where vast amounts of background information are freely available and where there are multiple methods – public access material on the web, freedom of information (FOI) or access to information on the environment (AIE) requests, or otherwise – for obtaining supporting or background information or other relevant material. In that new and evolving context a court would look rather cloistered from modernity in demanding reasons in some specific form or within the four corners of the decision alone – in copperplate handwriting on vellum perhaps.

134. Finally, the applicant's approach of launching upon the court a detailed textual exegesis of the plan, without expert evidence, can't be the correct procedure. The ordinary way in which the shortcomings of proposed government action would be addressed would be by way of submission

prior to the decision and then complaint that the points made in the submission were not properly addressed, supported by expert evidence in the case of technical material. Of course there are exceptions but the court isn't normally the proper first-instance analyser of impugned scientific and technical policy and textual choices. The applicant was a joint signatory on a submission to the Department although this wasn't exhibited, so we don't know what points the applicant made in the process. And in fairness the Department didn't publish a draft plan – something that might be worth considering in order to make consultation more meaningful. So I don't regard the lack of or obscure nature of involvement in the public consultation process as being an obstacle to the present action – anyway that wasn't argued by the State. But what's really lacking about the approach here is the lack of granular engagement with the detail of the plan by way of pleadings and evidence. Had this been pleaded in a way that engaged with the State's material supported by expert evidence, and been replied to by a State expert, one might be left with a defined residue of issues to address. Instead the applicant effectively invites me to look at the plan for myself, scientific detail and all. That can't be the correct approach, leaving aside the counterfactual scenario of obvious flaws on the face of the material. Labelling this as a legal issue doesn't convert an essentially scientific analysis into a jurisprudential question that allows the court to take a flyer at it.

135. The applicant therefore fails on Issue II.

136. That is just a decision on these facts, on these pleadings, and on these arguments – but I emphasise the point made above that the applicant is ultimately correct as to the need for quantification and for a demonstration of the consistency of this with the overall budget and sectoral ceilings. What this judgment most certainly is not is a finding that Ireland's climate ambitions are on track. The reports highlighted by the applicant are consistent with the view that delivery of necessary measures is well off-course, and inferentially that urgent and significant additional action is required, given the dynamically narrowing nature of the margin of appreciation in the carbon budgeting process. But this isn't a case pleaded or argued in a way that would permit the court to grant any relief based on such a situation.

Summary

137. In outline summary, without taking from the more specific terms of this judgment:

- (i) The CCAC were consulted as a matter of fact. The alleged lack of compliance with their views does not breach the requirement of consultation. Since the obligation to consult the CCAC is only a have-regard-to one, the alleged lack of compliance with CCAC views didn't trigger a reasons obligation as alleged.
- (ii) The EPA material was taken account of as a matter of fact. Qualification as a relevant consideration was also taken account of.
- (iii) For individual decisions and measures of general application that affect individual rights, the decision-maker must give the main reasons on the main issues.
- (iv) For measures of general application made under a statute that expressly or implicitly requires a particular level of reasons, for example by mandating public consultation, such reasons as are so required, for example such as will enable a participant in a consultation process to evaluate the measure – that applies here.
- (v) For measures of general application not made under a statute, or made under a provision that does not require reasons, and that do not affect individual rights, there is no requirement to give any reasons (for example, the enactment of primary law or most statutory instruments, the issuing of non-statutory policies).
- (vi) The 2015 Act has been amended to require that the plan will "ensure" compliance with budgets. So the duty to give reasons or detail now goes well beyond forming a view on the basis of which the interested citizen will vote.
- (vii) "Ensure" in s. 4 means ensure with an appropriately high level of confidence as opposed to with scientific certainty.
- (viii) Some measures appropriate to a plan aren't capable of being quantified because they don't in themselves reduce emissions, yet they are necessary. Other measures can't yield an exact impact calculable in advance – but what can be provided is a reasonable educated estimate. Thus reference to targets and potential isn't unlawful. That's inherent in the exercise, but one must make a reasonable attempt to quantify what is considered likely to happen.
- (ix) Bearing that in mind, the level of quantification in the plan or accompanying it must be such as to enable a reasonable member of the public to understand if the measures are realistic – realistic here means whether the plan is likely to actually meet the statutory objectives. Since the statutory objectives come in the form of allocation of a budget, the only conceivable way in which the adequacy of the plan can be assessed is by way of a budget breakdown of the various measures, that can be added up to form a total figure of emissions.

- (x) The Act demands considerably more than a merely reasonable plan – it must be a plan that ensures compliance with carbon budgets and sectoral ceilings. That involves qualifications, balancing the no-policy-change baseline projected forward with the impact of new policy measures projected forward. This may involve estimation but it can't involve a purely narrative, qualitative effort for any element of the budget. A budget ultimately is meaningless without a bottom line.
- (xi) In applying this to the facts, an applicant has to demonstrate that there is insufficient quantification in the plan for that purpose. Here, the complaint of lack of specificity isn't accompanied by any meaningful engagement with such specificity as the plan contains. Given the level of quantification on the face of the plan, the applicant hasn't discharged the onus of proof to show that a reasonable person would be unable to evaluate whether the plan is realistic.
- (xii) The complaint that the figures aren't justified doesn't get off the ground when the applicant hasn't made any real attempt to engage with the material that the plan does contain. Arguably, even if the numbers add up, a reasonable person would need to have some reasonable sense of the justification for the numbers in order to know whether the plan is realistic. But that complaint needs to be firmly situated in the context of detailed engagement with the detail that is there. The applicant hasn't done that and certainly hasn't brought forward expert evidence to show that the purported justifications do not reasonably support the numbers proposed.
- (xiii) The argument that there is no justification fails to take into account the supporting material. The applicant hasn't attempted to engage with that.
- (xiv) There isn't anything wrong in terms of the law on reasons with reasons being found in an accompanying document, even in terms that differ in the fine detail. Where reasons are required for a decision, there is no obligation to state reasons in the decision itself, either expressly or by reference to documentation that is expressly referred to. Nor is there an obligation to set out the reasons in a single document if they can be found in some other identified document. Even if no document is identified, reasons can be gathered from other documents which are not expressly referred to or from the overall context and circumstances, so a plan of this kind isn't invalid if somehow it doesn't have enough detail, as long as the detail if required is available in some other accessible way.
- (xv) Finally, the applicant's approach of launching upon the court a detailed textual exegesis of the plan, without expert evidence, can't be the correct procedure. The ordinary way in which the shortcomings of proposed government action would be addressed would be by way of submission prior to the decision and then complaint that the points made in the submission were not properly addressed, grounded on expert evidence in the case of technical matters. What's lacking about the approach here is the lack of granular engagement with the detail of the plan by way of pleadings and expert evidence.

Order

138. For the foregoing reasons, it is ordered that:

- (i) the proceedings be dismissed;
- (ii) unless any party applies otherwise by written legal submission within seven days from the date of this judgment, the foregoing order be perfected forthwith thereafter on the basis of no order as to costs; and
- (iii) the matter be listed on Monday 17th February 2025 to confirm the foregoing.