S. 37

File With _____

SECTION 131 FORM

Substitute Consent Application NO: 323676-25
Defer Re O/H ☐

Having considered the contents of the submission received 19/12/25 from MKO. I recommend that section 131 of the Planning and Development Act, 2000 be/not be invoked at this stage for the following reason(s): new planning material

E.O.: C. Flynn **Date:** 30/1/26

For further consideration by SEO/SAO

Section 131 not to be invoked at this stage. ☐

Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.: _____ **Date:** _____

S.A.O: _____ **Date:** _____

MR. BURKE

Please prepare SC $31 **- Section 131 notice enclosing a copy of the attached submission**

to: all parties **Task No:** 473557

Allow 2/3/4weeks – BP _____

EO: C. Flynn **Date:** 1/2/26

AA: _____ **Date:** _____

S. 37

File With _____

CORRESPONDENCE FORM

Substitute Consent Application No: ACP-323676-25

M. Khatiploug

Please treat correspondence received on 19/12/25 **as follows:**

1. Update database with new agent for Applicant/Appellant _____ 2. Acknowledge with SC 20 3. Keep copy of Commission's Letter ☐	1. RETURN TO SENDER with S C _____ 2. Keep Envelope. ☐ 3. Keep Copy of Commission's letter ☐

Amendments/Comments
Response to Submission by Offaly Co Co from MKO.

4. Attach to file (a) R/S ☐ (d) Screening ☐ (b) GIS Processing ☐ (e) Inspectorate ☐ (c) Processing ☐	RETURN TO EO ☐

	Plans Date Stamped ☐ Date Stamped Filled in ☐
EO: C. Flynn	AA: F. Khatiploug
Date: 22/12/25	Date: 29/12/25

(Flynn

Dáire Littleton Caden

From:	Ronan Dunne <rdunne@mkoireland.ie>
Sent:	Dé hAoine 19 Nollaig 2025 15:34
To:	Appeals2
Cc:	Catherine Flynn
Subject:	Lemanaghan Substitute Consent (Ref: ACP-323676-25) - Submission under S. 131
Attachments:	200804-e - Offaly Submission Response - F - 2025.12.19.pdf

Caution: This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

An Coimisiún Pleanála,

I refer to your letter dated 1st December 2025 in relation to the substitute consent application at Lemanaghan Bog, Co. Offaly (case ref: ACP-323676-25).

In accordance with section 131 of the Planning and Development Act, 2000, as amended, please find attached a submission, on behalf of the Applicant Bord na Móna Energy Ltd., in response to the submission received by the Commission from Offaly County Council.

I trust the submission attached is in order and acceptable to the Commission. If you require any further information, please don't hesitate to contact me.

Best regards,
Ronan

Ronan Dunne
Planner

MKO
Tuam Road, Galway, H91 VW84

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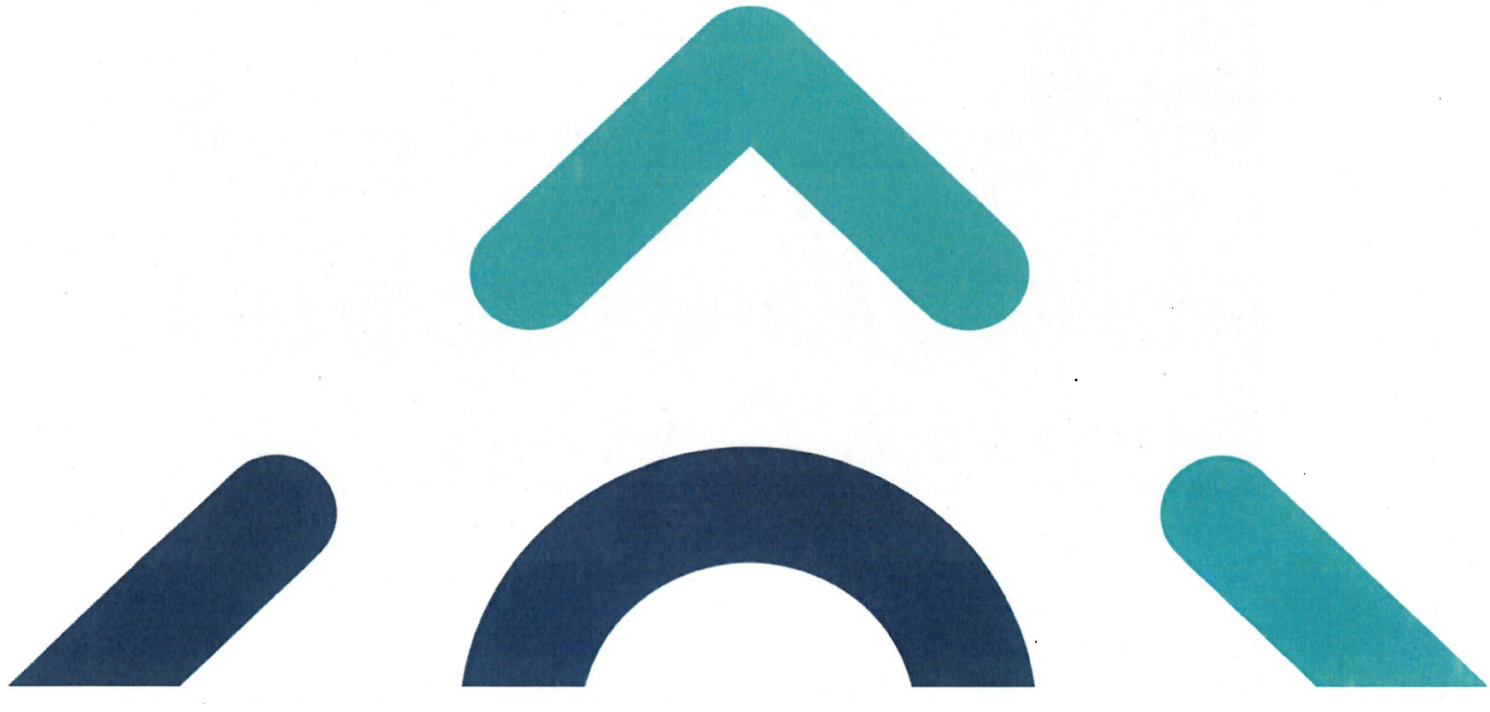
Our offices will close on Tuesday 23rd December and reopen on Friday 2nd January.
Wishing you a Merry Christmas and a Happy New Year.

McCarthy Keville O'Sullivan Ltd t/a MKO. Registered in Ireland No: 462657. VAT No: IE9693052R
MKO Water Limited t/a MKO. Registered in Ireland No: 338589. VAT No: IE6358589Q
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Planning and Environmental Consultants

Response to Submission by Offaly County Council

Lemanaghan Substitute Consent (Ref: ACP-323676-25)



DOCUMENT DETAILS

Client:	**Bord Na Móna Powergen Ltd.**
Project Title:	**Lemanaghan Substitute Consent (Ref: ACP-323676-25)**
Project Number:	**200804-e**
Document Title:	**Response to Submission by Offaly County Council**
Document File Name:	**200804-e - Submissions Response – 2025.12.03**
Prepared By:	**MKO** **Tuam Road** **Galway** **Ireland** **H91 VW84**

Planning and Environmental Consultants

Rev	Status	Date	Author(s)	Approved By
01	draft	17/12/2025	RD/EC	SC/SMC
02	Final	19/12/2025	RD/EC	SC/ SMC

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1. INTRODUCTION

MKO have been instructed by Bord na Móna Energy Ltd. ('the Applicant'), to prepare a response to the correspondence issued by An Coimisiún Pleanála ('the Commission') on the 1st December 2025. The correspondence relates to the live application for Substitute Consent before the Commission for consideration (Ref. ACP-323676-25), henceforth the 'Subject Application', which seeks Substitute Consent for peat extraction and ancillary works carried out at Lemanaghan Bog in County Offaly. The Commission's correspondence was accompanied by a copy of a submission received by the Commission ('the Submission') from Offaly County Council ('the Planning Authority') dated 26th November 2025, which outlines the Planning Authority's views and recommendations for the Commission to consider when making their decision on the Subject Application. The Commission's correspondence requested the Applicant to make submission or observation to the Commission on the Submission by the 22nd December 2025.

This response document sets out the Applicant's thematic responses to the Submission, with the structure following a similar format as the Submission.

The application for Substitute Consent included a Remedial Environmental Impact Assessment Report (rEIAR), Remedial Natura Impact Statement (rNIS) and a suite of drawings in support of the application.

Reference throughout this response to the 'Application Site' relates to the lands which are the subject of the Subject Application.

1.1 Development for which Substitute Consent is Sought

The Subject Application was submitted to the Commission on 5th September 2025, seeking substitute consent under Section 177E of the Planning and Development Act, 2000 (as amended) for the following Development, set out in the public notices as follows:

- *Industrial scale peat extraction (milled peat) at the Application Site from 1988 to June 2020;*
- *Installation, use and maintenance of surface water drainage infrastructure (drains, silt ponds, pumps) at the Application Site to facilitate peat extraction activity from 1988 to present day;*
- *Provision of a welfare facility building and associated septic tank, 2 no. storage containers;*
- *Use and maintenance of pre-existing railway infrastructure to facilitate peat extraction activity from 1988 to present day;*
- *Control Measures associated with the above, inclusive of the IPC Licence measures (Ref. P0500-01) which commenced from May 2000 onwards to the present day; and,*
- *All associated site development and ancillary work*

Activities at the Application Site are managed under an Integrated Pollution Control (IPC) licence (Ref. P0500-01), granted by the Environmental Protection Agency (EPA) in May 2000.

Section 1.1.1 of Chapter 1 of the rEIAR which accompanies the Subject Application, defines the development as a project comprising of different 'phases', which are as follows:

- **'Peat Extraction Phase':** peat extraction and ancillary activities at the Application Site from July 1988 to the cessation of peat extraction in June of 2020 (July 1988 – June 2020). The Peat Extraction Phase is described in detail in Sections 4.4 to 4.8 of Chapter 4 of the rEIAR.

- **'Current Phase':** the management of the Application Site since June 2020 (June 2020 to present). The Current Phase is described in detail in Sections 4.8 to 4.9 of Chapter 4 of the rEIAR.
- **'Remedial Phase':** the activities intended to be carried out at the Application Site into the future. The Remedial Phase is described in detail in Sections 4.10 of Chapter 4 of the rEIAR.

2. SUBMISSION FROM OFFALY COUNTY COUNCIL

The submission from the Planning Authority received by the Commission was submitted in line with Section 177I of the Planning and Development Act 2000 (as amended) ('the Act'). Section 177I (2) (a),(b),(c), (d), and (e) state the following:

(2) The report referred to in subsection (1) shall include the following:

(a) information relating to development (including development other than the development which is the subject of the application for consent) carried out on the site where the development the subject of the application for consent is situated, and any application for permission made in relation to the site and the outcome of the application;

(b) information relating to any warning letter, enforcement notice or proceedings relating to offences under this Act that relate to the applicant for substitute consent;

(c) information regarding the relevant provisions of the development plan and any local area plan as they affect the area of the site and the type of development concerned;

(d) any information that the authority may have concerning—

(i) current, anticipated or previous significant effects on the environment, or on a European site associated with the development or the site where the development took place and, if relevant, the area surrounding or near the development or site, or

(ii) any remedial measures recommended or undertaken;

(e) the opinion, including reasons therefor, of the manager as to—

(i) whether or not substitute consent should be granted for the development, and

(ii) the conditions, if any, that should be attached to any grant of substitute consent.

The Submission outlines several topics which the Planning Authority have invited the Commission to consider in their consideration of the Subject Application. The following sections outline the main topics raised within the Submission, and the Applicant's response to each topic, where relevant.

2.1 Planning History

The Planning Authority outline that the following planning history is relevant to the Subject Application:

- **Pl. Ref: 24/75** – Retention/ Continued use of Wind Monitoring Mast.
- **ABP 306246** – Application for leave to apply for substitute consent under section 177C of the Planning and Development Act 2000, (as amended) to regularise the planning status of Bord na Mona's historic peat extraction (and ancillary works) on the milled peat production bogs.
- **ABP 307282** – Application for substitute consent in relation to peat extraction at bogs in the Boora Bog Group.
- **ABP 313412** - Leave to apply for substitute consent for peat extraction and all associated bog development works which forms part of the Boora Bog Group, within Lemanaghan Bog located northeast of Ferbane in Co. Offaly.

- **ABP 319374** – Request to enter into pre-application consultation pursuant to Section 177E(1a) of the Planning and Development Act, 2000, as amended.

2.1.1 Response

It is submitted that the planning history outlined by the Planning Authority in the Submission are different to the planning applications which were considered in Chapter 2 of the rEIAR submitted with the Subject Application. It is considered by the Applicant that in addition to the applications and pre-application consultation highlighted by the Planning Authority in the Submission, there are additional permissions that apply to the Application Site (see Table 1).

These applications are outlined in Tables 1 below:

Table 1: Relevant planning applications to the Subject Application

Planning Authority	Pl. Ref.	Description	Planning Authority Decision
Offaly County Council	16/341	The erection of a guyed wind monitoring mast, with instruments, up to 100m in height. The purpose of the proposed mast is to assess the suitability of the company's adjacent lands for wind farm development	Granted – 09/02/2017
Offaly County Council	93/367	Temporary level crossing for railway	Granted - 09/11/1993
Offaly County Council	93/182	Railway underbridge	Granted - 09/09/1993
Offaly County Council	91/220	3 No. Level Crossings	Granted - 26/11/1991
Offaly County Council	85/57	Single Line Rail Underpass	Granted - 07/06/1985
Offaly County Council	81/375	Erection of harvester repair bay and ancillary works at Lemanaghan	Granted – 15/01/1982

2.2 Policy

The Submission references several policies, objectives and designations from the Offaly County Development Plan 2021-2027 ('CDP') that the Planning Authority wish to draw to the attention of the Commission, which are discussed in the following sections.

2.2.1 Climate Action and Energy

CAEP-16: *It is Council policy to support the preparation of a comprehensive after use framework plan for the industrial peatlands and associated workshops, office buildings and industrial sites in the midlands and adjacent parts of the north west and southern regions, which meets the environmental, economic and social needs of communities in these areas, and also demonstrating leadership in climate change mitigation and land stewardship. The Council recognises that the industrial peatlands in the midlands are a significant resource will transition to after uses ranging from amenity, tourism, biodiversity services, 'wild areas', flood management, climate mitigation, energy development, industry, education, conservation and many more.*

CAEP-18*: It is Council policy to investigate the feasibility of an energy park with educational and amenity facilities relating to any future development of renewable energy projects of significant scale that comes forward over the lifetime of this Plan. Any development of renewable energy on cutaway bog will be required to provide increased opportunities for amenity access and educational facilities.*

CAEP-19: *It is Council policy that planning applications for development on or immediately adjacent to peatlands shall be accompanied by assessments considering the following issues where relevant; peatland stability, hydrology, carbon emissions balance and ecological impact assessment.*

CAEP-20*: It is Council policy to support the implementation of any relevant recommendations contained in the National Peatlands Strategy 2015 and any subsequent revisions.*

2.2.1.1 Response

The Applicant notes the climate and energy policies outlined by the Planning Authority. Sustainably managing future uses of industrial peatland sites is key to the CDP's climate and energy policies and objectives. Regularising the planning status of the Application Site through substitute consent enables planning applications for future uses to be made.

It should be noted policies CAEP-18 and CAEP-19 relate to future development on peatland sites and therefore are not directly applicable to the Subject Application. Lemanaghan Wind Farm DAC, a joint venture between SSE Renewables and Bord na Móna (BnM) are proposing a wind energy development on lands within the Application Site. It is intended that an application for the Lemanaghan Wind Farm will be made to the Commission in early 2026. Climate and energy policies will be fully considered as part of that application.

2.2.2 Peatlands

CAEO-06: *It is an objective of the Council to source E.U. and national funding to support projects which assist the transition of the industrial peatlands to sustainable after uses.*

CAEO-07*: It is an objective of the Council to ensure that renewable energy projects located on peatlands or in close proximity to peatlands do not negatively impact on any rehabilitation measures including enhanced rehabilitation measures (i.e. drain blocking and rewetting).*

2.2.2.1 Response

While there are no after uses or renewables infrastructure proposed as part of the Subject Application, the regularisation of the planning status of the Application Site via a granting of consent in respect of the Subject Application will be a significant facilitator in ensuring the sustainable use and management of these peatlands. If this does not occur, the opportunity to develop alternative uses of the Application Site, including renewables, will be significantly restricted. The prospective application for a wind energy

development at the Application Site will comprehensively assess decommissioning and rehabilitation measures required under Condition 10 of the IPC licence (Ref. P0500-01).

2.2.3 Landscape

The Planning Authority note the Application Site is deemed to have a medium landscape sensitivity designation under the CDP. It is recognised by the Planning Authority that cutaway bog landscapes differ throughout the county, with future uses such as wind energy, biomass crops and industrial uses considered appropriate on some sites.

The following landscape policies are referenced in the Submission:

BLP-38: *It is Council policy to protect and enhance the county's landscape, by ensuring that development retains, protects and where necessary, enhances the appearance and character of the county's existing landscape.*

BLP-40: *It is Council policy to ensure that consideration of landscape sensitivity is an important factor in determining development uses.*

2.2.3.1 Response

Chapter 12 of the rEIAR assess the significance of landscape and visual effects occurring at the Application Site since 1988. The vast majority of the Application Site was already subject to peat extraction by 1988, with the greatest landscape and visual effects having occurred prior to the 1988. No significant landscape effects occurred in these areas during the Peat Extraction Phase.

2.2.4 Biodiversity

BLP-01: *It is Council policy to protect, conserve, and seek to enhance the county's biodiversity and ecological connectivity.*

BLP-02: *It is Council policy to conserve and protect habitats and species listed in the Annexes of the EU Habitats Directive (92/43/EEC) (as amended) and the Birds Directive (2009/147/EC), the Wildlife Acts 1976 (as amended) and the Flora Protection Orders.*

BLP-03: *It is Council policy to support and co-operate with statutory authorities and others in support of measures taken to manage proposed or designated sites in order to achieve their conservation objectives.*

BLP-04: *It is Council policy to protect and maintain the conservation value of all existing and future Natural Heritage Areas, proposed Natural Heritage Areas, Nature Reserves, Ramsar Sites, Wildfowl Sanctuaries and Biogenetic Reserves in the county.*

BLP-05: *It is Council policy to ensure that development does not have a significant adverse impact, incapable of satisfactory avoidance or mitigation, on plant, animal or bird species protected by law.*

BLP-14: *It is Council policy to protect the county's designated peatland areas and landscapes, including any historical walkways through bogs and to conserve their ecological, archaeological and cultural heritage and to develop educational heritage.*

BLP-15: *It is Council policy to work with adjacent local authorities and relevant stakeholders in promoting a National Park designation for the peatlands in the midlands and a 'Regional Peatway' connecting natural and cultural attractions.*

BLP-16: *It is Council policy to support the provision of outdoor pursuits, walking and cycling routes through the county's peatlands and network of industrial railways linking the River Shannon Blueway, Royal Canal, Grand Canal and Barrow Blueway across the midlands as outlined in the 'Major Cycling Destination in the Midlands of Ireland –Feasibility Study 2016', which is a priority of the 'Outdoor Recreation Plan State Lands and Waters' (2017).*

2.2.4.1 Response

An rEIAR accompanied the Subject Application, as prescribed under Part XA 177F of the Planning and Development Act 2000 (as amended). This rEIAR complies with the EIA Directive as amended by Directive 2014/52/EU, the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations (as amended).

Chapter 6 of the rEIAR, Biodiversity, assesses each of the phases (Peat Extraction Phase, Current Phase, Remedial Phase) of the Project. Chapter 6 concludes that during the Peat Extraction Phase between 1988 and June 2020, it was unlikely that a significant negative effect on the habitats, flora and fauna had occurred at the Application Site as by 1988 these were highly modified from their original state. No significant effects on biodiversity were identified to have occurred during the Current Phase of the Project, with significant positive effects predicted on biodiversity during the Remedial Phase.

An rNIS was also prepared and accompanies the Subject Application to allow the Commission to conduct an Appropriate Assessment under Part XAB of the Planning and Development Acts 2000 (as amended). The rNIS has provides an assessment of all potential direct or indirect adverse effects on European Sites. The rNIS concludes that the there is no potential for the peat extraction and ancillary activities at the Application Site to have had an adverse effect on the integrity of any European Site in light of their conservation objectives. Similarly, there is no potential for adverse effects on the integrity of any European Site during the Current or Remedial Phase as a result of the implementation of the draft Cutaway Bog Decommissioning and Rehabilitation Plan for the Application Site.

2.2.5 Tourism and Recreational Development

RP-15: *It is Council policy to promote the tourist development potential of 'after use' quarries and peatlands, subject to appropriate reinstatement for their recreational amenity value and potential for habitat nesting sites, subject to proper planning, environmental protection and sustainable development.*

TRP-22: *It is Council policy to promote the 'Feasibility Study on the Development of a Major Cycling Destination in the Midlands of Ireland' (2016) in conjunction with Bord na Móna and Coillte in accordance with 'Outdoor Recreation Plan for Public Lands and Waters in Ireland' 2017-2021 and in particular to recognise Tullamore as a hub in this respect.*

2.2.5.1 Response

The Subject Application seeks substitute consent for peat extraction and ancillary activities at the Application Site since 1988. While there are no amenity uses of the Application Site proposed as part of the Subject Application, the regularisation of the planning status of the Application Site via a granting of consent in respect of the Subject Application will be a significant facilitator in ensuring the sustainable use and management of these peatlands. If this does not occur, the opportunity to develop alternative uses of the Application Site, including tourism and amenity, will be significantly restricted. The prospective application for Lemanaghan Wind Farm will seek consent for recreational amenities which will be integrated into the wind farm design.

2.3 Development Contribution

In the Submission, the Planning Authority highlights that the Development Contribution for the extraction of peat in the Council's Development Contribution Scheme 2021-2025 is €1000 per hectare in accordance with Table 2 of the Scheme.

2.3.1 Response

The Applicant acknowledges the provisions within of the Offaly Development Contribution Scheme 2021-2025. In this regard, it should be noted that industrial peat extraction was carried out by the Applicant in the belief that the development was lawful and was exempt from a requirement for planning consent. Upon clarification in the High Court[1], industrial scale peat extraction ceased within Lemanaghan Bog in June 2020. Should substitute consent be granted, the Applicant would request that any deliberations of the Commission around the imposition of a development contribution take cognisance of the fact that the Applicant understood that the peat extraction works comprised exempted development at the time they were undertaken. Offaly County Council acknowledge this fact in their submission, stating that there was '*uncertainties regarding the legal status of peat extraction since the introduction of Section 4(4) of the Planning and Development Act in 2011 which were finally clarified by the courts in 2019*'.

If the Commission deem it appropriate to attach a condition stipulating a financial contribution to the Planning Authority, the Applicant will engage with the Planning Authority to agree on a reasonable financial contribution, given the unique circumstances of the Subject Application and the fact that peat extraction ceased upon legal clarification of the exempted development status.

[1] *Friends of the Irish Environment Ltd v Minister for Communications, Environment & Climate Action & Ors. [2019] IEHC 646*

3. SUGGESTED CONDITIONS

Under Section 177I (2)(e) of the Act, the Planning Authority are entitled to request conditions, if any, that should be attached to any grant of substitute consent. While a schedule of conditions was not outlined by the Planning Authority, suggested conditions were outlined from the Roads Section, and Environment and Water Services within the Planning Authority. The Applicant has provided a response to each of these items below.

3.1 Roads Section

3.1.1 Condition 1

The Applicant shall maintain minimum visibility splays achieved at each access/egress point in accordance with the requirements of Table 1.3: Design Speed Related Parameters of TII Rural Link Road Design DN-GEO-03031.

3.1.1.1 Response

The Subject Application does not include provision for the upgrade of any access/egress points to the Application Site. Chapter 15 - Major Accidents and Disasters of the rEIAR submitted with the Subject Application identifies that the residual impact of the risk of Traffic Incidents associated with the development the subject of the substitute consent application is "*not significant, neutral not significant and unlikely*".

Lemanaghan Wind Farm DAC, a joint venture between SSE Renewables and BnM are proposing a wind energy development on lands within the Application Site. A prospective planning application in respect of this proposed wind farm, which will include details of the upgrading of access/egress points at the Application Site, is intended to be lodged to the Commission in early 2026. These upgrades will ensure that the required minimum visibility splays are achieved at each access/egress point, as required.

3.1.2 Condition 2

The Applicant shall maintain measures to prevent surface water from discharging onto the public road, particularly at access/egress points.

3.1.2.1 Response

Drainage is an important feature of peat extraction and ancillary activities. An extensive drainage network is present across the Application Site, which formerly supported peat extraction, and is currently maintained under the IPC Licence (Reg. P0500-01) associated with peat extraction activities at the Application Site. The IPC Licence is under the control of the EPA. In accordance with Condition 6.6 of the IPC Licence, all surface water from the licensed area is required to be controlled and discharged via an appropriately designed silt pond treatment arrangement to ensure the protection of surface waters.

There have been no recorded incidents of surface water from the Application Site discharging to public roads, and it is not anticipated that such incidents will arise in the future, owing to the topographical differences between public roads and the Application Site (the latter being lower than public roads, by virtue of the removal of peat from the Application Site). The Application Site and surface waters therein will continue to be managed in accordance with the conditions of the IPC Licence, which will continue to ensure the appropriate management of surface waters. These measures, in combination with the

topography of the Application Site, will prevent surface water from discharging onto the public road, including at access/egress points.

The Applicant will continue to monitor the Application Site in accordance with the requirements of the IPC Licence and maintain the measures which ensure the appropriate management of surface water, including its non-discharge to public roads.

3.1.3 Condition 3

The Applicant shall continue to maintain culverts, underpasses and bridges crossing the public road network.

3.1.3.1 Response

Underpasses and bridges relevant to the Application Site were constructed with the benefit of planning consent (Offaly County Council Refs. 85/57, 91/220, 93/182). Accordingly, substitute consent is not being sought in respect of these infrastructures. The underpasses and bridges have been constructed and operated in accordance with the conditions attached to their grants of planning. There are no culverts within the Application Site.

Notwithstanding the above, the Applicant will continue to maintain underpasses and bridges in accordance with the conditions of the grants of planning associated with these infrastructures, and will continue to liaise with the relevant bodies, including *inter alia* the Commission for Railway Regulation, Transport Infrastructure Ireland, the EPA and the Planning Authority as required with regards the management and maintenance of these and all other relevant rail infrastructure within County Offaly.

The underpasses and bridges relevant to the Application Site have been subject to their own planning consents and do not form part of the Subject Application. The Applicant therefore requests that conditions are not imposed by the Commission in any grant of substitute consent in respect of infrastructure for which substitute consent is not sought.

3.1.4 Condition 4

The Applicant shall remove any unnecessary/unused signage in the clear zones adjacent to the public roads.

3.1.4.1 Response

Condition 10 of the IPC Licence requires the Applicant to prepare, to the satisfaction of the EPA, Cutaway Bog Rehabilitation plans for boglands within the IPC Licence boundary, including the Application Site. As per the Lemanaghan Bog Draft Decommissioning and Rehabilitation Plan (2025) included with the Subject Application, one of the decommissioning tasks for the Application Site is "*Clean-up of remaining or unconsolidated waste or materials located in Bogs, Yards, Buildings and Offices*". In respect of signage, the Applicant intends to remove unnecessary/unused signage and will liaise with the Planning Authority to agree which signage is deemed unnecessary/unused before removal.

3.1.5 Condition 5

The Applicant is requested to liaise with Offaly County Council with regard to the removal of rail crossings and associated remedial measures for crossings no longer in use or with no future use.

3.1.5.1 Response

Railway level crossings relevant to the Application Site were constructed with the benefit of planning permission which was granted by the Planning Authority in November 1991 (Offaly County Council Ref. 91/220). Accordingly, substitute consent is not being sought in respect of this infrastructure. For completeness, this consented infrastructure is assessed as required in the rEIAR which accompanies the Subject Application. The railway level crossings have been constructed and operated in accordance with the conditions outlined in their consent.

Notwithstanding the above, the Applicant have commenced engagement with the Planning Authority with regards the removal of rail crossings across the Applicant's landbank within County Offaly. The Applicant will continue this engagement to determine, in agreement with Offaly County Council, the remedial measures for crossings no longer in use or with no future use. At all times, any works associated with the removal of rail infrastructure will be in compliance with the IPC Licence (Reg. P0500-01).

The railway level crossings relevant to the Application Site have been subject to their own planning consents and do not form part of the Subject Application. The Applicant therefore requests that conditions are not imposed by the Commission in any grant of substitute consent in respect of infrastructure for which substitute consent is not sought.

3.1.6 Condition 6

The Applicant shall maintain the road on the approach to each retained rail crossing for a distance of 50m on each approach to the satisfaction of Offaly County Council and upgrading, to present standards, of the appropriate warning signage for the safety of road users.

3.1.6.1 Response

As above, railway level crossings relevant to the Application Site were constructed with the benefit of planning permission which was granted by the Planning Authority in November 1991 (Offaly County Council Ref. 91/220). Accordingly, substitute consent is not being sought in respect of this consented infrastructure. For completeness, this consented infrastructure is assessed as required in the rEIAR which accompanies the Subject Application. The railway level crossings have been constructed and operated in accordance with the conditions outlined in their consent.

Notwithstanding the above, the Applicant have and will continue to maintain the approach to each rail crossing in the interest of safety, and will, separately to this application for substitute consent, liaise with the Planning Authority with regards any maintenance works, and the upgrading, to present standards, of the appropriate warning signage for the safety of road users.

The railway level crossings relevant to the Application Site have been subject to their own planning consents and do not form part of the Subject Application. The Applicant therefore requests that conditions are not imposed by the Commission in any grant of substitute consent in respect of infrastructure for which substitute consent is not sought.

3.2 Environment and Water Services

3.2.1 Condition 1

The submitted rEIAR and rNIS provide a generally comprehensive retrospective assessment of the environmental impacts associated with the works. The proposed mitigation measures outlined in these documents should be incorporated as conditions of consent to ensure environmental protection and compliance with statutory obligations.

3.2.1.1 Response

The Applicant have and will continue to adhere to all control and mitigation measures outlined in the rEIAR and rNIS submitted with the Subject Application.

4. CONCLUSION

This document has been prepared to respond the submission made by the Planning Authority in respect of the Subject Application. The Applicant wishes to highlight the key findings of the Planning Authority's report below.

- The Planning Authority are satisfied with the information contained within the rEIAR and rNIS. The Environment and Water Services Section found that the rEIAR and rNIS provide a *'generally comprehensive retrospective assessment of the environmental impacts associated with the works'*.
- The Planning Authority are satisfied that exceptional circumstances do exist in the case of the Subject Application, noting that there was '*uncertainties regarding the legal status of peat extraction since the introduction of Section 4(4) of the Planning and Development Act in 2011 which were finally clarified by the courts in 2019'*.
- The Planning Authority acknowledges that peat extraction ceased on the Application Site upon legal clarification of the exempted development status.
- The Planning Authority acknowledges that the regularisation of the planning status of the Application Site would be beneficial in the context of site management and potential future uses.

The Applicant welcomes the Planning Authority's ultimate recommendation that it is considered appropriate that substitute consent is granted for the Subject Application.

The information contained in this submission is intended to provide additional detail in support of the information and recommendations of the Planning Authority. The Applicant trusts that the information provided will assist the Commission in their ongoing consideration of the Subject Application.

