

File With _____

SECTION 131 FORM

Appeal NO: ACP 323676-25Defer Re O/H ☐Having considered the contents of the submission dated 20/7/26
fromBrenda Kenny I recommend that section 131 of the Planning and Development Act, 2000
~~be~~/not be invoked at this stage for the following reason(s): no new planning informationE.O.: Caeroline FlynnDate: 5/8/26

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: _____

M _____

Please prepare BP _____ - Section 131 notice enclosing a copy of the attached
submission

to: _____ Task No: _____

Allow 2/3/4weeks – BP _____

EO: _____

Date: _____

AA: _____

Date: _____

File With _____

CORRESPONDENCE FORM

Appeal No: ACP 323676-25M. BurkePlease treat correspondence received on 20/7/26 as follows:

1. Update database with new agent for Applicant/Appellant _____

2. Acknowledge with SC203. Keep copy of Commission's Letter ☐

1. RETURN TO SENDER with BP _____

2. Keep Envelope: ☐3. Keep Copy of Commission's letter ☐

Amendments/Comments

5131 response

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: <u>[Signature]</u>	AA: <u>DBurke</u>
Date: <u>22/7/26</u>	Date: <u>22/7/26</u>

Catherine

Daragh Cassells

From: K K Kenny <kkballylin@gmail.com>
Sent: Monday 20 July 2026 14:07
To: Appeals2
Subject: Submission For File Reference ACP-232676-25
Attachments: Lemanaghan_Submission_to_ACP.pdf

Follow Up Flag: Follow up
Flag Status: Completed

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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.

Please find attached the response to the letter dated 2nd. July 2026
File Reference ACP-323676-25
Brenda Kenny
Ballylin
Ferbane
Co. Offaly
R42E954
Phone: 087-1378054
Date 15-07-2026

Please confirm delivery and acceptance

Thanking You

--

K K Kenny

Brenda Kenny
Ballylin
Ferbane
Co. Offaly
R42E954
Phone: 087-1378054
Date 15-07-2026

The Secretary
An Coimisiún Pleanála
64 Marlborough Street
Dublin 1
D01 V902

RE: Submission / Observation on Application for Substitute Consent

Case Reference: ACP-323676-25 (SU19.323676)

Applicant: Bord na Móna Energy Ltd.

Development: Substitute consent under s.177E of the Planning and Development Act 2000 (as amended) for peat extraction and ancillary works at Lemanaghan Bog, Co. Offaly, accompanied by a remedial Environmental Impact Assessment Report (rEIAR) and remedial Natura Impact Statement (rNIS).

A Rúnaí

I wish to make the following submission/observation on the above application for substitute consent. I am a resident of the Lemanaghan area, and I am directly affected by the receiving water courses, I am gravely concerned for the archaeological and natural heritage of Lemanaghan. I understand that no fee applies to submissions on substitute consent applications (S.I. No. 648 of 2023). I request that the Commission acknowledge receipt of this submission and keep me informed of the further stages of the application.

My submission is that the Commission **should refuse substitute consent, or, at minimum, should not determine the application on the present documents**, for the reasons set out below. In summary, the accompanying rEIAR and rNIS do not adequately assess the effects that actually occurred during the period for which consent is sought; the applicant's own data record real and, in the case of cultural heritage, irreversible effects; and the remedial measures offered do not satisfy the statutory test. Accordingly, the "exceptional circumstances" required to justify a grant of substitute consent are not made out.

Ground 1 — The assessment relies on post-cessation data and an incomplete baseline

1. **The surveys underpinning this application were largely carried out after extraction had ceased, and for a different project.** The rNIS confirms that its habitat, otter, aquatic and bird surveys were undertaken between 2020 and 2025 to inform the assessment of the proposed Lemanaghan Wind

Farm (rNIS §1.4.4 and Table 1-2), and the archaeological walkover was carried out in December 2024 to January 2025 for the same wind-farm assessment (rEIAR Chapter 13, §13.2.3).

2. **Peat extraction ceased in June 2020.** An assessment of the effects of extraction from 1988 to 2020, built on data gathered after extraction stopped and after the site had begun to re-vegetate, cannot reliably characterise the environmental conditions that existed, or the effects that occurred, during the decades of active working. The rNIS in effect assesses a recovering site and projects backwards.
3. **The applicant admits it cannot fully reconstruct the baseline.** The rEIAR states there is no photographic evidence available from 1988, and that peatland surveys commenced only in 1993, resulting in a lack of information on archaeological finds and features from 1988 to 1993 (rEIAR §13.1.1.1). No in-stream water-quality dataset and no bird dataset from the active-working period is presented. Where the baseline cannot be reconstructed, the significant effects that “have occurred” (as required by s.177F) cannot be reliably identified or measured.

Ground 2 — The applicant's own data record real deterioration in water quality in the River Brosna

4. **The site drains to the Brosna and thence to the River Shannon.** Seven of the eight surface-water outfalls discharge into tributaries of the River Brosna, and all site drainage ultimately reaches the River Shannon (rEIAR Chapter 8; rNIS §4.1.3). The Brosna River and River Shannon form part of the River Shannon Callows SAC and the Middle Shannon Callows SPA.
5. **EPA biological water-quality data show deterioration coinciding with the extraction period.** On the Brosna at Ballycumber Bridge, the rating fell from a Q4–5 baseline to “Poor” in 1996 and “Moderate” in 1993, 1999 and 2002; near Kilcolgan, it fell from a Q5 baseline (1987) to “Poor” in 1993 and 1999 (rNIS §4.1.3.2, Table 4-6).
6. **The EPA attributes downstream water-quality risk directly to peat.** The Blackwater (Shannonbridge) water bodies downstream are classified “At Risk” under the Water Framework Directive, with the significant pressure listed as “Extractive Industry” (rNIS §4.1.3, Table 4-5).
7. **These are effects that occurred, not merely potential effects.** The rNIS repeatedly frames the water-quality pathway as a “potential” for deterioration from silt and hydrocarbon run-off (rNIS §2.1, §2.2). That conditional language understates the position: the applicant's own EPA data show that deterioration from baseline in fact occurred. A remedial EIAR is required to assess the effects that have occurred, and I submit the rEIAR does not adequately do so.
8. **The mitigation relied upon is not shown to be effective.** The application relies on the historic installation of silt ponds. Silt ponds reduce coarse sediment but do not remove fine colloidal peat, dissolved organic carbon (which discolours water and is costly to treat) or ammonia. I invite the Commission to require evidence of the monitored efficacy of the outfall controls during the active-working period, rather than a description of the measures alone.

Ground 3 — The rNIS does not permit a conclusion of no adverse effect on integrity beyond reasonable scientific doubt

9. **The applicable standard is a strict one.** Before granting consent the Commission must be able to conclude, beyond reasonable scientific doubt and on the basis of best scientific knowledge, that the development has not adversely affected, and will not adversely affect, the integrity of the European sites. Any genuine unresolved scientific gap prevents that conclusion.
10. **The rNIS relies on post-cessation survey to reach findings about the working period.** As set out in Ground 1, the bird, otter, aquatic and habitat surveys post-date the cessation of extraction and were designed for the wind-farm project (rNIS §1.4.4). They cannot characterise disturbance, water-quality or habitat conditions during the 1988–2020 period for which consent is sought.
11. **The “no habitat loss” finding for SPA birds is not evidenced.** For Golden Plover and Lapwing the rNIS asserts that no significant habitat loss has occurred since the 1988 baseline, yet no 1988–2020 bird dataset is presented. This assertion sits uneasily with the steep declines the rNIS itself records for this SPA (a decline of approximately 84% in lapwing relative to the baseline period).
12. **The alkaline fen receptor is admittedly not fully mapped.** The rNIS acknowledges that not all areas of the priority habitat alkaline fen [7230] within the SAC have been fully mapped, yet proceeds to conclude on the pathway. Where a priority-habitat receptor is incompletely mapped, reasonable scientific doubt as to the effect on integrity cannot be excluded.
13. **Otter: absence of recent field signs does not establish absence of historic effect.** The surveys recorded no otter resting or breeding sites on site, but the rNIS accepts otter occurs in the adjacent Boor, Blackwater and Shannon. Post-2020 survey cannot show whether resting or breeding sites were disturbed during decades of drain maintenance. The precautionary principle should resolve that doubt against a grant.
14. **The statutory nature-conservation consultees have not been heard.** The rNIS scoping table records “none to date” against the National Parks and Wildlife Service, Inland Fisheries Ireland, An Taisce, BirdWatch Ireland and others (rNIS §1.4.2). I respectfully request that the Commission obtain the views of the NPWS and Inland Fisheries Ireland before concluding its Appropriate Assessment.

Ground 4 — The application discloses significant and, in part, irreversible effects on cultural heritage

15. **The site contains cultural heritage of national significance.** The rEIAR records 488 recorded monuments within the application-site boundary, including 113 trackways/toghers and 369 peatland structures, some dating from the Neolithic to the medieval period (rEIAR §13.3.3). A plank trackway dated to AD 596–597 runs towards Lemanaghan island, which houses St Mella's cell and St Manchán's church, and is associated with the foundation of the monastery (rEIAR §13.3.4).
16. **The rEIAR itself records that extraction physically destroyed archaeology.** It describes a mid-seventh-century togher as still being destroyed, having been reduced in length by 47 metres between 1993 and 1996; other sites are recorded as truncated by drains and partly removed by milling; and

human remains (a probable bog body) were recovered from the milled surface at Tumbeagh in an already extensively destroyed condition (rEIAR §13.3.4).

17. **Indirect and setting effects have been scoped out by assertion.** The methodology concludes that, because extraction was confined to the surface, it was not capable of wider landscape effects on setting (rEIAR §13.2.5). That is a conclusion rather than an assessment. It does not address the severance of the historic pilgrim route (Slí Mór) and the trackway network that connected Lemanaghan to Boher and Clonmacnoise — a landscape whose value lies precisely in its routes and connectivity.
18. **Irreversible effects cannot be remedied.** The rEIAR's own significance criteria describe “profound” effects as those where mitigation is unlikely to remove the adverse effect and the resource is completely and irreversibly destroyed (rEIAR §13.2.4.2). Destroyed toghers and lost stratigraphy cannot be remediated. To that extent the remedial-measures requirement of s.177F cannot be satisfied.
19. **The statutory heritage consultees have not been heard.** The rEIAR records that scoping requests to the Department (DHLGH) and the Heritage Council in 2022 and 2024 received no response (rEIAR §13.1.5). Given the number of monuments and the recovery of human remains, I request that the Commission obtain the views of the National Monuments Service and the National Museum of Ireland before determining the application.

Ground 5 — The remedial measures do not satisfy s.177F

20. **The remedy appears to be a pre-existing obligation.** The rNIS states that the rehabilitation plan is required under Condition 10 of the applicant's EPA Licence P0500-01 (rNIS §1.1). Measures the applicant is already legally obliged to carry out do not constitute additional remediation of the harm caused by unauthorised development.
21. **The plan is in draft and is not time-bound.** The plan appended is a draft Cutaway Bog Decommissioning and Rehabilitation Plan which expressly does not consider future after-use. Section 177F requires the period of time within which remedial measures will be carried out. A finalised plan with binding milestones is required.
22. **Stabilisation is not restoration.** The plan's stated objective is environmental stabilisation of bare peat, not restoration of the raised bog or of water quality in the Brosna and Lemanaghan Brook. It does not commit to enforceable water-quality outcomes.

Site-specific observations

Lemanaghan Brook at Entry To River Brosna



Lemanaghan Brook On Lemanaghan Bog



Lemanaghan Brook Was Once A Rich Trout Stream

Brosna River - Brosna Bridge Ferbane



The Brosna River in Ferbane is environmentally damaged

Both sides of the river are contaminated with peat and silt – approx. 2 meters each side of the river.

The mature vegetation displayed is growing on that peat and silt

This river was once renowned for its fishing qualities

Now it is nearly inaccessible.

This environmental destruction displayed occurred during the period that the applicant is looking for substitute planning consent for.

The applicant – Bord na Mona – a semi-state body, has to be held accountable for such environmental destruction.

A detailed costed plan for the restoration of the river Brosna and its tributaries has to be developed and completed before substitute consent can be granted.

Relief sought

For the reasons above, I respectfully request that the Commission:

- (a) **refuse** the application for substitute consent, on the basis that the exceptional circumstances required to justify a grant are not made out and the remedial-measures requirement of s.177F cannot be satisfied; or, in the alternative,
- (b) require the applicant to furnish **significant further information**, including a reconstructed water-quality assessment for the active-working period, a complete assessment of effects during 1988–2020 rather than post-cessation, and the views of the NPWS, Inland Fisheries Ireland, the National Monuments Service and the National Museum of Ireland, with fresh public notice; and
- (c) In the event that the Commission is minded to grant consent, **impose binding conditions** requiring: a finalised (not draft) rehabilitation plan with a defined timeframe; drain-blocking to defined water-table targets; a costed, time-bound programme for the restoration and monitoring of the Lemanaghan Brook and River Brosna; the provision of financial security (a bond); and independent ecological and archaeological oversight reporting to the Commission.

I would be grateful if the Commission would confirm receipt of this submission and notify me of its decision in due course. I thank the Commission for its consideration.

Mise, le meas,

A rectangular box containing a handwritten signature in dark ink. The signature appears to read "Brenda Kenny".

Brenda Kenny
