

File With _____

SECTION 131 FORM

Substitute Consent Application NO: _____

Defer Re O/H ☐Having considered the contents of the submission received George Kelly ^{17 July 2026} fromGeorge Kelly 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.: Catherine 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 SC _____ - Section 131 notice enclosing a copy of the attached submission

to: _____ Task No: _____

Allow 2/3/4 weeks – BP _____

EO: _____

Date: _____

AA: _____

Date: _____

File With _____

CORRESPONDENCE FORMSubstitute Consent Application No: ABP- 323676-25MS. LoughranPlease treat correspondence received on 17/7/26 by email as follows:

1. Update database with new agent for Applicant/Appellant _____ 2. Acknowledge with SC <u>20</u> 3. Keep copy of Board's Letter ☐	1. RETURN TO SENDER with SC _____ 2. Keep Envelope: ☐ 3. Keep Copy of Board's letter ☐
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Amendments/Comments
<u>474649</u>

4. Attach to file (a) R/S ☐ (d) Screening ☐ (b) GIS Processing ☐ (e) Inspectorate ☐ (c) Processing ☐	RETURN TO EO ☐
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	Plans Date Stamped ☐
	Date Stamped Filled in ☐
EO: <u>C. Flynn</u>	AA: <u>Aine Loughran</u>
Date: <u>17-7-26</u>	Date: <u>17/7/26</u>

Daniel O'Connor

From: K K Kenny <kkballylin@gmail.com>
Sent: Friday 17 July 2026 11:59
To: Appeals2
Subject: Response to letter dated 2nd. July 2026 - File Reference ACP-323676-25
Attachments: Lemanaghan_Legal_Interest_Submission.pdf

You don't often get email from kkballylin@gmail.com. [Learn why this is important](#)

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.

To whom it may concern

Please find attached a response to a letter from An Coimisiun Pleanála dated 2nd. July 2026
File Reference ACP-323676-25

Grainne Kenny

Ballylin

Ferbane

Co. Offaly

--

K K Kenny



Virus-free. www.avast.com

Grainne Kenny
Ballylin
Ferbane
Co. Offaly

Date : 15th. July 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.

Subject: Sufficiency of the applicant's legal interest — unregistered parcels and disputed lands within the red-line boundary

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.

A Rúnaí, a chara,

I wish to make the following submission on the above application. I am a resident of the Lemanaghan area. I understand that no fee applies to submissions on substitute consent applications (S.I. No. 648 of 2023). I ask that the Commission acknowledge receipt of this submission and keep me informed of the further stages of the application.

This submission concerns a single, threshold issue: whether the applicant has demonstrated a **sufficient and complete legal interest in all of the lands within the red-line application boundary** to invoke the exceptional jurisdiction to grant substitute consent under section 177E. I do not ask the Commission to determine questions of title or ownership, which I understand are matters of civil law outside its jurisdiction. I ask only that the Commission be satisfied — as it must be as a threshold matter — that the applicant holds, or has the consent of the owners of, every parcel within the application boundary, and I set out below specific reasons why, on the information available, that has not been demonstrated.

1. The legal requirement

1. **An applicant must have, and must disclose, a sufficient legal interest.** Under the Planning and Development Regulations 2001, an application must state the legal interest of the applicant in the land and, where the applicant is not the owner, the name and address of the owner. In practice a

letter of consent from the owner is required where the applicant is not the registered owner. It is not permissible to apply in respect of another person's land without that person's consent.

2. **This is a threshold question in a substitute consent case.** The further information furnished by the applicant relies on a Landowner Letter of Consent asserting freehold and beneficial ownership of the application lands. Where a third party puts before the Commission material raising doubt as to the sufficiency of that interest, the Commission may seek further information and, if it is clear the applicant does not hold a sufficient interest, refuse on that basis. The exceptional nature of the section 177E jurisdiction makes it all the more important that the legal interest relied upon is clear, complete and reconcilable.

2. Parcels within the red line not registered to the applicant

The red-line boundary of this application encloses an area of approximately 1,111 hectares. It is my understanding, and I ask the Commission to require the applicant to address, that **a number of parcels of land within that boundary are not registered to the applicant**, and that no letter of consent from the owner(s) of those parcels appears among the application documents.

The rEIAR itself acknowledges the presence within the site of lands in other uses — for example a plot of agricultural land “associated with a mineral island” described as being “outside the Application Site boundary” but enclosed by it, and private agricultural holdings on the mineral islands. The status of such lands, and of any laneways, drains, trackways and third-party holdings within the red line, should be established with certainty before the application is determined.

3. Lands acquired from Mr Peter Moore and exchanged with a third party

I wish to bring to the Commission's specific attention that **a parcel of land within, or now forming part of, the application area was acquired by the applicant from its owner, Mr Peter Moore, against his wishes, and that part of that land was subsequently exchanged by the applicant with a local landowner** in a manner that altered — and, it appears, enhanced — the applicant's boundary at this location.

Townland : Derrica More

Folio Number : 1695

Date Of Acquisition : 15th. July 2022

Folio Number For Land Parcel Exchange: OY31477F

Furthermore, and of particular significance, Mr Peter Moore received no payment of compensation whatsoever for the compulsory acquisition of his lands. As set out at Section 4 below, the payment of compensation is a condition of the lawful completion of a compulsory acquisition. If no compensation was assessed or paid to Mr Moore, then the acquisition of his lands was never lawfully perfected, and the applicant's title to those lands — and, in turn, to any lands exchanged on the strength of them — is open to serious question. If the applicant contends otherwise, it should be required to produce proof of the payment said to have been made.

If this is correct, it raises a direct question over whether the red-line boundary relied upon in this application reflects lands the applicant lawfully and completely holds, or whether it incorporates lands whose acquisition or exchange is contested. That goes to the heart of the “clear and reconcilable legal interest” the Commission must be satisfied of. I therefore ask the Commission to require the applicant to produce, for these lands, the complete chain of title.

4. On what authority did the applicant act — the “land administrator” question

Bord na Móna's power to acquire land does not arise at large. It derives from the **Turf Development Acts 1946 to 1998**, under which the Board (and, since its 1998 conversion to a plc operating through subsidiaries such as Bord na Móna Energy Ltd) may acquire bogland and other land — including, where applicable, by compulsory purchase order. A compulsory acquisition is a formal statutory process: it requires notice to affected owners, the deposit of a map and a book of reference, a period for objections, and the making and registration of a vesting order. Critically, **a compulsory acquisition is not complete, and title is not lawfully perfected, unless and until compensation has been assessed and paid to the owner.** Payment of compensation is not a courtesy; it is a condition of the lawful taking of private property in the public interest. Any subsequent transfer of such lands between Bord na Móna group companies must likewise be evidenced.

Against that background I respectfully pose the following questions, and ask that the applicant be required to answer them:

- ▶ **By what statutory power, and under which specific instrument, did the applicant acquire each parcel within the red-line boundary that was not held by agreement with the owner — in particular the lands referred to at Section 3 above acquired from Mr Peter Moore?**
- ▶ **If any such parcel was compulsorily acquired, on what date was the compulsory purchase order made and confirmed, was the statutory notice and objection procedure followed, and can the vesting order and registered folio be produced?**
- ▶ **For every compulsory purchase order affecting land within the red-line boundary, can the applicant produce proof of payment of the compensation due to the owner?** I ask that the applicant furnish, for each parcel compulsorily acquired, evidence that the statutory compensation was in fact assessed and paid — for example the compensation agreement or arbitrator's/Property Arbitrator's award, and the corresponding proof of payment or receipt — so that the Commission can be satisfied that title to each such parcel was lawfully and completely perfected. **In particular, and given my understanding that Mr Peter Moore received no compensation for the compulsory acquisition of his lands (Section 3), the applicant should be required to produce proof of any payment it says was made to Mr Moore.** Where any compensation remains unassessed or unpaid, the Commission should be informed which parcels are affected.
- ▶ **On what authority did the applicant exchange land with a private third party, and by what instrument was that exchange effected and registered? When, and under what statutory function, did the applicant assume the role of administering, re-arranging or exchanging privately-owned land so as to adjust its own boundary?**

- **For every parcel within the red line not registered to the applicant**, where is the owner's written consent to the making of this application, as the Regulations require?

5. Why this matters to the application

These are not merely private grievances. If parcels within the red line are not owned by the applicant and are not the subject of the owners' consent, then the application is not properly constituted over the whole of the area for which substitute consent is sought, and the Commission cannot be satisfied of the legal interest required to exercise its exceptional jurisdiction. At the very least, the boundary of any consent granted would have to be confined to lands the applicant actually holds. I would also respectfully observe that the confidence a decision-maker can place in an applicant's environmental and rehabilitation commitments is diminished if the applicant cannot demonstrate clear and lawful title to the land those commitments concern.

Relief sought

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

- (a) require the applicant, by way of **significant further information**, to produce a schedule of every parcel within the red-line boundary, identifying for each the folio, the registered owner, and — where the applicant is not the owner — the owner's written consent to this application, together with the complete chain of title (including any compulsory purchase order, vesting order and inter-company transfer), and, **for every parcel compulsorily acquired, proof that the statutory compensation was assessed and paid to the owner**, for the lands referred to at Sections 3 and 4 and for any other parcel not held by agreement;
- (b) decline to determine the application until the **sufficiency and completeness of the applicant's legal interest** across the entire application area has been demonstrated to the Commission's satisfaction; and
- (c) if any parcel within the red line is found not to be owned by or consented to by the applicant, **refuse the application, or confine any consent** strictly to the lands the applicant lawfully holds.

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,



Grainne Kenny

Appendix 01

Land Registry

County Offaly

Folio 12313F

Part 2 - Ownership

Title POSSESSORY VO 05-MAR-1997

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965		
1	05-MAR-1997 L.R. 0/93095	PATRICK MOORE of BALLYLIN, FERDANE, COUNTY OFFALY is full owner. Cancelled	D2021LR024823A 15-JUL-2022
2	15-JUL-2022 D2021LR024823A	BORD NA MONA ENERGY LIMITED (C.R.O. reference no. 303287) of Main Street, Newbridge, County Kildare is owner.	

APPENDIX

Statement of Mr Peter Moore

Regarding the compulsory acquisition of his lands at Derrica More

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

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

Applicant: Bord na Móna Energy Ltd.

Development: Substitute consent for peat extraction and ancillary works at Lemanaghan Bog, Co. Offaly

I, **Peter Moore**, of **New Road Ballylin Ferbane R42AO25**, make this statement of my own knowledge in support of the submission made by Grainne Kenny in the above case. I confirm that the following is true to the best of my knowledge and belief.

1. I am, or was, the owner of lands at Derrica More. **Folio Number 1695**, some of which lie within, or now form part of, the red-line boundary of the above application.
2. These lands were acquired from me by, or on behalf of, the applicant (Bord na Móna) compulsorily and against my wishes on the 15th July 2022
3. **I did not receive any payment of compensation whatsoever for the acquisition of these lands.** No compensation was ever offered to me, agreed with, or paid to me
4. I am further aware that part of my former lands was subsequently exchanged by the applicant with a neighbouring landowner -Folio Number OY28627F, which had the effect of altering the applicant's boundary at this location.
5. I have not, at any time, given my consent to the transfer of these lands or to the making of this application in respect of these lands.
6. I make this statement so that the Commission is aware of these matters when considering whether the applicant has demonstrated a sufficient and complete legal interest in all of the lands within the application boundary. I am content for this statement to be placed on the public case file.

Signed:

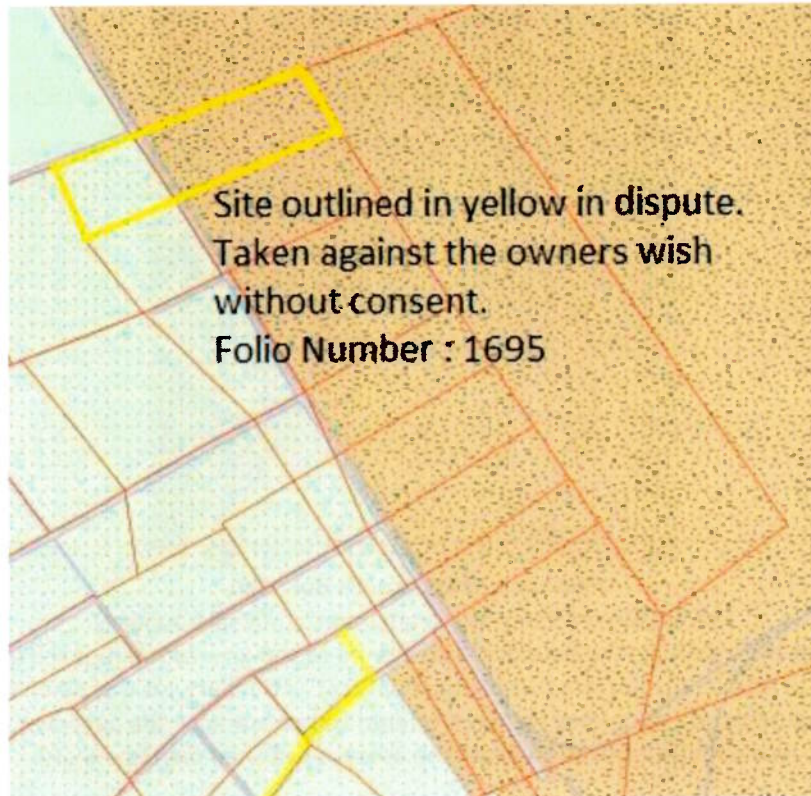


[Peter Moore]

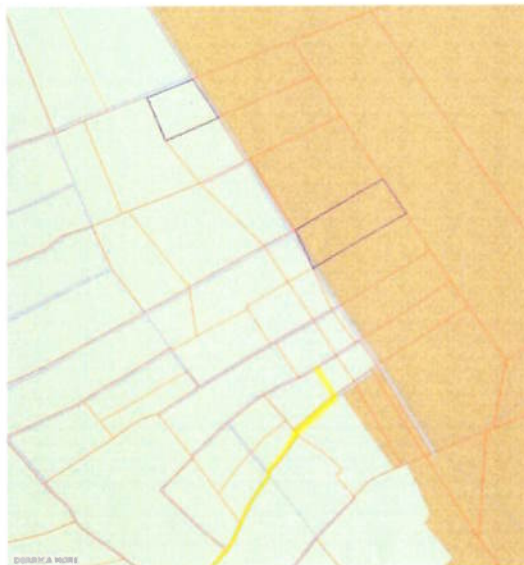
Date: 15th. July 2026

Address : New Road Ballylin Ferbane

Contact: Phone 0876124250



Original Plot Folio - 1695 Derrica More – P Moore



Parcels outlined in blue - used in exchange to alter the applicant's boundary



Alteration to Applicant's Boundary

The broken red line was the applicant's original boundary

After the exchange, the boundary was altered as shown – continuous red line

Note: The parcel of land on the left was outside the applicant's boundary yet was taken from the original landowner without their consent; they were not offered compensation – the applicant was acting as a land administrator to facilitate the alteration of their own boundary.