

Our Case Number: ACP-323980-25



An
Coimisiún
Pleanála

Joe Mayo
56 Derg Hill
Cullenagh
Ballina
Co. Tipperary
V94 K5W8

Date: 04 August 2026

Re: Proposed Water Supply Project for the Eastern and Midlands Region
in the counties of Clare, Limerick, Tipperary, Offaly, Kildare, and Dublin.

Dear Sir / Madam,

An Coimisiún Pleanála has received your submission in relation to the above-mentioned proposed development and will take it into consideration in its determination of the matter.

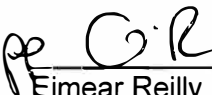
The Commission will revert to you in due course in respect of this matter.

Please be advised that a copy of all submissions/observations received in relation to the application will be made available for inspection on the Commission's website at the following link:

<https://www.pleanala.ie/en-ie/case/323980>.

If you have any queries in the meantime, please contact the undersigned officer of the Commission. Please quote the above mentioned An Coimisiún Pleanála reference number in any correspondence or telephone contact with the Commission.

Yours faithfully,


Eimear Reilly
Executive Officer
Direct Line: 01-8737184

PA09

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Eimear Reilly

From: Eimear Reilly
Sent: Friday 24 July 2026 10:54
To: 'Joe Mayo'
Subject: RE: Your Observation Reference: SID-OBS-005781

Good morning Joe

The Commission acknowledges receipt of your email and confirms receipt of your submission, SID-OBS-005781.

A formal acknowledgement will issue by post in due course, and a refund will be issued to the credit or debit card used to make the online payment.

Kind regards
Eimear Reilly

From: LAPS <laps@pleanala.ie>
Sent: Tuesday 21 July 2026 09:07
To: Eimear Reilly <e.reilly@pleanala.ie>
Subject: FW: Your Observation Reference: SID-OBS-005781

From: Joe Mayo <joe.mayo@yahoo.com>
Sent: Monday 20 July 2026 13:21
To: LAPS <laps@pleanala.ie>
Subject: Re: Your Observation Reference: SID-OBS-005781

You don't often get email from joe.mayo@yahoo.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.

Subject: ACP-323980-25 — Further Submission Filed Online

Dear Sir / Madam,

Re: ACP-323980-25
Proposed Water Supply Project for the Eastern and Midlands Region

I have filed my further submission online in response to An Coimisiún Pleanála's letters of 24 June 2026 and 26 June 2026.

This submission responds to Uisce Éireann's Response to Submissions dated 6 May 2026 and Supplementary Response dated 2 June 2026.

I previously made a valid observation and paid the prescribed observation fee. I understand from the Commission's published guidance that no additional fee is payable where an observer is asked by the Commission to respond to further information. Online payment was required by the

portal, I reserve my position that the payment was not properly due and request that it be refunded or otherwise addressed.

Please confirm receipt and confirm that the submission has been accepted onto the case file.

Yours faithfully,

Joe Mayo
56 Derg Hill
Cullenagh
Ballina
Co. Tipperary
V94 K5W8

On Monday, July 20, 2026 at 01:20:00 PM GMT+1, An Bord Pleanála <no-reply@pleanala.ie> wrote:



An
Coimisiún
Pleanála

Strategic Infrastructure Observation Confirmation

Your reference	SID-OBS-005781
An Coimisiún Pleanála case number or brief development description as provided	323980
Name	Joseph Mayo
Fee	€50.00
What happens next?	Our staff will process your observation. This will take about five to seven working days. We will send a letter in the post to tell you if your observation is valid — or not.
Further information	You can get further information on Strategic Infrastructure on the An Coimisiún Pleanála website . This includes the Strategic Infrastructure Applications Public Guidance Document .



An
Coimisiún
Pleanála

SID Online Observation

Online Reference
SID-OBS-005781

Online Observation Details

Contact Name
Joseph Mayo

Lodgement Date
20/07/2026 13:19:42

Case Number / Description
323980

Payment Details

Payment Method
Online Payment

Cardholder Name
Joseph Mayo

Payment Amount
€50.00

Fee Refund Requisition

Please Arrange a Refund of Fee of

€ 50.00

Lodgement No

LDG- 089437-26

Reason for Refund

NO fee required.

Documents Returned to Observer

☐

Yes

☒

No

Request Emailed to Senior Executive Officer for Approval

☒

Yes

☐

No

Signed

EO

Date

24/07/26

Finance Section

Payment Reference

ch_3TvGAcB1CW0EN5FC0yC6H345

Checked Against Fee Income Online

EO/AA (Accounts Section)

Amount

€

Refund Date

Authorised By (1)

SEO (Finance)

SEO (Finance)

Date

Authorised By (2)

Chief Officer/Director of Corporate Affairs/SAO/Board
Member

Date

FURTHER SUBMISSION AND FORENSIC REVIEW

Uisce Éireann Water Supply Project – Eastern and Midlands Region

Lower River Shannon Abstraction Scheme

Application Ref: ACP-323980-25

Further submission in response to Uisce Éireann's Response to Submissions dated 6 May 2026 and Supplementary Response dated 2 June 2026

Submitted further to An Coimisiún Pleanála's letters of 24 June 2026 and 26 June 2026

Prepared for filing before 21 July 2026

Submitted by	Joe Mayo
Address	56 Derg Hill, Cullenagh, Ballina, Co. Tipperary, V94 K5W8
Original submission	Lower River Shannon Submission, 24 February 2026
Purpose of this document	To identify matters which remain unanswered or inadequately answered following the Applicant's responses and to request further information and an oral hearing.

This submission is made without prejudice to any further submissions that may be made if the Commission seeks further information, holds an oral hearing, or receives further material from the Applicant or other parties.

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Abbreviations used in this submission

- AA — Appropriate Assessment (under Article 6(3) of the Habitats Directive).
- ACP — An Coimisiún Pleanála (referred to in this submission as “the Commission”).
- BQE — Biological Quality Element (a biological indicator by which WFD ecological status is classified).
- CEMP — Construction Environmental Management Plan.
- CPO — Compulsory Purchase Order.
- EIA / EIAR — Environmental Impact Assessment / Environmental Impact Assessment Report.
- EPA — Environmental Protection Agency.
- ESB — Electricity Supply Board.
- NIS — Natura Impact Statement.
- NWRP — National Water Resources Plan.
- Q95 — the river flow equalled or exceeded 95 per cent of the time (a low-flow statistic).
- RBMP — River Basin Management Plan.
- REAC — Register of Environmental Actions and Commitments.
- SAC — Special Area of Conservation (a European site under the Habitats Directive).
- SID — Strategic Infrastructure Development.
- WFD — Water Framework Directive (Directive 2000/60/EC).
- WSIAR — Water Status Impact Assessment Report (the Applicant’s WFD compliance report).

1. Executive Summary

This further submission is made in response to Uisce Éireann’s Response to Submissions dated 6 May 2026 and Supplementary Response dated 2 June 2026. It should be read together with my original submission of 24 February 2026 concerning the proposed abstraction from the Lower River Shannon at Parteen Basin.

The central point remains straightforward. The issue is not whether the proposed project is considered strategically desirable, or whether Uisce Éireann has carried out a substantial amount of modelling. The issue is whether the Commission is now provided with evidence capable of allowing it to lawfully conclude that the proposed abstraction will not cause deterioration under Article 4 of the Water Framework Directive, will not adversely affect the integrity of any European site (such as a Special Area of Conservation, or SAC) under Article 6(3) of the Habitats Directive, and has been assessed in accordance with the EIA Directive.

The Applicant’s Response does not, in my respectful submission, cure the deficiencies identified in my original submission. In many places it addresses the general topic raised, but not the specific evidential question. It repeatedly states that the modelling demonstrates no deterioration, or that the Water Status Impact Assessment Report (WSIAR) demonstrates compliance. It does not consistently identify the numerical, water-body-by-water-body, Biological Quality Element (BQE) level evidence requested in the original submission.

The Applicant has also clarified matters which, in my submission, create further rather than lesser concern. It states that UKTAG lake-level deviation thresholds are not statutory Irish standards and are not biological class-boundary metrics. That clarification makes it even more important for the Commission to identify the Irish EPA biological classification evidence which performs the determinative work under the WFD. Hydrological lake-level compliance is not the same as biological class security.

The Applicant further states that the abstraction itself is to be authorised and conditioned by a separate EPA abstraction licence process and that the Commission cannot determine or condition the abstraction. That creates a material interface issue. The planning application is being determined before the operative abstraction licence is in place, yet the environmental assessment depends upon assumptions about the manner, limits, curtailment and adaptive management of that abstraction.

Recent developments strengthen the need for caution. Procurement is progressing in parallel with planning. The case decision date has been extended. Ireland has recently been found by the CJEU not to have fully and correctly transposed several provisions of the Water Framework Directive in Case C-204/24 Commission v Ireland. The EPA's 2026 abstraction licensing guidance confirms the centrality of the separate abstraction licence. Waterways Ireland issued Marine Notice No. 56 of 2026 (25 May 2026), a Low Water Levels Advisory for the Shannon Navigation. These matters do not determine the application, but they reinforce the need for a careful, evidence-led and legally conservative approach.

I respectfully request that the Commission require further information, hold an oral hearing, and not grant permission unless and until the specific unanswered matters identified in this submission have been resolved on the face of the record.

The five questions that decide this application

Stripped of detail, the Commission's decision turns on five questions to which the Applicant's May and June responses do not, on the face of the record, provide a located answer. Each can be answered only by identifying a specific figure, table or paragraph, or by confirming that the information does not exist.

- For each affected water body, what is the current status of each Biological Quality Element, its numerical distance to the relevant class boundary, and the predicted post-abstraction margin under the 300 MI/d peak and the climate-adjusted peak scenario (EIAR Chapter 9, Scenario 5)?
- If UKTAG lake-level thresholds are, as the Applicant now accepts, not Irish biological standards and have not been calibrated against them, which Irish, biological, water-body-specific evidence performs the determinative work of showing that no quality element deteriorates?
- How can the Commission conclude that Article 4 deterioration is excluded when the Applicant states that the abstraction volumes, curtailment rules and ecological controls are to be fixed later by the EPA, in a licence process not yet applied for, which the Commission cannot determine or condition?
- If deterioration cannot be excluded on the present evidence, where is the Article 4(7) derogation assessment, which the Applicant has chosen not to carry out?
- Where drought results are presented as context or sensitivity testing rather than as part of the formal WFD compliance conclusion (Response, paragraph 2888; EIAR Appendix A9.1, paragraph 40), what evidence excludes temporary deterioration during the low-flow periods when ecological sensitivity is greatest?

The remainder of this submission, and the issue sheets in Schedule A, identify these and further matters individually. In each case the question is not whether the topic was mentioned, but whether a located, testable answer has been given.

Top 12 unresolved matters

The following summarises the matters that remain unresolved on the record. The points of law — project-splitting, deferral of assessment to a later licence, and the absence of any Article 4(7) assessment — are the most material; the evidential gaps identified below support them.

No.	Issue	Why unresolved	What ACP should require
1	BQE class-boundary margins	No located water-body-by-water-body table	BQE schedule with margins under 300 MI/d peak and climate-adjusted peak
2	UKTAG	Applicant accepts it is not an Irish biological standard	The Irish EPA biological evidence that determines status
3	EPA abstraction licence	Not yet applied for; ACP cannot condition it	Interface note; licence assumptions; coordination with EPA
4	ESB impoundment	Operational dependency; ESB licence not yet lodged	Status of ESB application and its conditions
5	Drought	Treated as operating scenario, not formal compliance	Low-flow / temporary-deterioration analysis at BQE level
6	Article 4(7)	No screening or derogation undertaken	Formal Article 4(7) screening statement
7	Future environmental flows	Treated as external to the project	Ecological-headroom / recovery-trajectory analysis
8	Mitigation / adaptive management	Deferred; triggers unspecified	Objective, enforceable curtailment and ecological triggers
9	Alternatives	Assessed at strategic (NWRP) level only	Project-level comparison to equivalent evidential depth
10	Appropriate Assessment	Hydrology-to-ecology link not shown	Conservation-objective matrix; no reliance on deferred controls
11	Whole project / project-splitting	ESB operation excluded from the project	Assessment of the whole project incl. abstraction operation
12	Article 7 WFD	Drinking Water Protected Area obligations not shown	Specific Article 7 assessment for the abstraction point

2. Procedural Context

My original submission was made in respect of application reference ACP-323980-25. It focused primarily on the Water Framework Directive, the need to exclude deterioration, and the need for evidence at the level of biological quality elements rather than general hydrological reassurance.

An Coimisiún Pleanála subsequently invited observations on Uisce Éireann's Response to Submissions dated 6 May 2026 and Supplementary Response to Submissions dated 2 June 2026. The Commission's correction letter of 26 June 2026 clarified that submissions must be received on or before 21 July 2026. This further submission is made within that procedural window.

The Response to Submissions Report states that 114 submissions were received, comprising prescribed bodies and general observers. It also states that an initial review of submissions was undertaken using artificial intelligence to group submissions by theme, and that the output was then manually audited by the project team. I do not suggest that the use of a theming tool is, of itself, improper. The relevance is that a thematic approach may be inadequate where a submission raises precise legal and technical questions requiring precise answers.

The Applicant repeatedly states that issues have already been addressed in the Planning Report, EIAR, NIS, WSIAR and supporting documents, and provides cross-references rather than line-by-line responses. That may be administratively efficient. It is not a substitute for showing where the evidence necessary to discharge the legal burden is found.

I make this submission as a person directly concerned by the proposed abstraction, residing in the vicinity of the proposed Raw Water Intake and as a legitimate user of the affected waters. I set out the matters below clearly so that they may be considered on the record by the Commission.

3. Core Submission

The Commission is not being asked to resolve a general policy debate about whether the Greater Dublin Area requires additional water supply. It is being asked to decide whether the particular project before it can lawfully be consented having regard to the mandatory requirements of EU and Irish environmental law.

The Applicant bears the burden of providing the information necessary to enable the Commission to carry out its functions. The Commission must itself be satisfied; it cannot merely adopt the Applicant's conclusions. Where the Applicant says "the modelling demonstrates", the relevant question is where the modelling demonstrates the specific legal proposition being relied upon.

In practical terms, the Commission should not ask whether the Applicant has carried out a large assessment. It should ask whether the assessment answers the questions required by law. A large volume of documentation does not of itself remove a missing link in reasoning.

The specific missing link in this case remains the connection between hydrological modelling and biological status. The WFD is concerned with status and deterioration. Status is classified by reference to biological quality elements and supporting elements. Therefore, if the conclusion is that deterioration has been excluded, the record should show how that conclusion follows at the level of each relevant water body and each relevant quality element.

The Applicant's response does not provide a clear answer to that question. It asserts that quality elements were considered and that WFD objectives will not be compromised. It does not identify a clear table showing current BQE status, class-boundary distance, predicted post-abstraction value, margin to deterioration, uncertainty band and worst-case climate/drought result for each relevant receptor. If that information exists, the Commission should require the Applicant to identify it. If it does not exist, the assessment is incomplete in a legally material respect.

4. Legal Framework and Corrected Authorities

I correct one citation point from my original submission. The reference to C-535/18 as "Moorburg" should not be maintained. Case C-535/18 is Land Nordrhein-Westfalen. The Moorburg case is C-142/16

Commission v Germany. This correction does not alter the substance of my WFD point, which rests principally on Case C-461/13 Bund für Umwelt und Naturschutz Deutschland eV v Bundesrepublik Deutschland (“Weser”).

The Weser judgment is the central WFD authority. It establishes that the environmental objectives in Article 4 are binding and that authorisation must be refused where a project may cause deterioration of the status of a surface water body or jeopardise the attainment of good status, unless the conditions for derogation are satisfied. It also provides that deterioration occurs where at least one quality element falls by one class, even if the overall classification of the water body does not fall.

C-535/18 Land Nordrhein-Westfalen is relevant to the need for the effects of a project on water status to be assessed in a manner that is accessible to the public and capable of being tested within the authorisation process. It is not a substitute for Weser and should not be overstated.

C-127/02 Waddenzee, C-258/11 Sweetman, C-323/17 People Over Wind, C-461/17 Holohan and C-164/17 Grace and Sweetman are relevant to the Habitats Directive and Appropriate Assessment. They establish, in summary, that the competent authority may authorise a project only where there is no reasonable scientific doubt as to the absence of adverse effects on site integrity, that an assessment must be complete, precise and definitive, that mitigation cannot be used to avoid screening into Appropriate Assessment, and that compensatory measures are not mitigation for the purposes of Article 6(3).

Irish authorities including Kelly v An Bord Pleanála [2014] IEHC 400, O’Grianna v An Bord Pleanála [2014] IEHC 632, Connelly v An Bord Pleanála [2018] IESC 31 and Balz and Heubach v An Bord Pleanála [2019] IESC 90 are relevant to the need for proper assessment, proper identification of the whole project, and adequate reasons. They support the proposition that a decision-maker must be able to identify the reasoning chain by which a conclusion has been reached, particularly where EU environmental law is engaged.

Although the Habitats Directive “no reasonable scientific doubt” test should not be transposed mechanically into Article 4 WFD, the WFD is still an objective and precautionary legal regime. The Applicant is correct that WFD assessment is not a criminal “beyond reasonable doubt” test. However, that does not mean the Commission may accept unparticularised assertions. It must be satisfied on objective evidence that deterioration will not occur, or else the Article 4(7) derogation route must be confronted.

5. Applicant Response Method

The Applicant’s response method is a recurring issue. The Response repeatedly groups submissions by topic, refers back to the original application documents, and states that the relevant matter has already been assessed. The Supplementary Response does the same, expressly stating that many issues have already been addressed in the May response and in the planning application documentation.

That approach may be sufficient for broad objections. It is not sufficient where the submission asks for specific information capable of determining whether the legal test is met. My original submission did not ask for reassurance that WFD compliance was considered. It asked for element-specific status, class-boundary margins, uncertainty disclosure, drought and low-flow modelling, Article 4(8) non-compromise analysis, and Article 4(7) screening if deterioration could not be excluded.

The Applicant’s response to many of these points is that the WSIAR demonstrates compliance. That is a conclusion. The Commission still requires the evidential path to that conclusion. The purpose of this further submission is to identify where the response remains conclusory rather than evidential.

What counts as a responsive answer

A recurring feature of the Applicant's responses is that a specific question is met with a statement that the matter has been 'addressed', 'assessed' or 'demonstrated' in the EIAR, NIS or WSIAR, or with a cross-reference to an entire chapter or report. With respect, a cross-reference to a document is not, in law, an answer to a question, and an assertion that compliance has been demonstrated is a conclusion, not the evidence that supports it.

For each item of further information identified in this submission and in Schedule A, a responsive answer requires the Applicant to do one of two things: (a) identify the specific chapter, section, paragraph, table or figure in which the requested value, margin, finding or reasoning actually appears; or (b) confirm on the record that the information does not exist. Where the Applicant does neither — where it repeats that the assessment is adequate without locating the determinative evidence — the Commission is respectfully invited to treat the question as unanswered, and to require the information by way of a formal request before any decision to grant permission is made.

I recognise that the Applicant is not obliged to provide a narrative, point-by-point reply to every matter raised in submissions, and that a decision-maker's reasons need not address each point individually (Case C-721/21 *Eco Advocacy v An Bord Pleanála*). That principle concerns the adequacy of reasons. It does not dilute the anterior and mandatory obligation to carry out a complete assessment on the basis of the determinative evidence, nor the Applicant's burden to place that evidence before the Commission (Case C-127/02 *Waddenzee*; Case C-461/13 *Weser*; *Kelly v An Bord Pleanála*). The request in this submission is therefore not for a narrative reply. It is that the determinative evidence exist and be identifiable on the record, because without it the Commission cannot lawfully complete the assessment the Directives require.

6. Water Framework Directive: Remaining Defects

The Applicant states that the WSIAR applies the correct legal test under Article 4(1) WFD and demonstrates that the Proposed Project will not cause deterioration or jeopardise good status. That is the Applicant's conclusion. It does not answer whether the Commission is provided with sufficient objective evidence to verify that conclusion.

The WFD defect identified in my original submission has three parts. First, the Applicant has not clearly identified the existing status and class-boundary proximity of each relevant quality element. Secondly, it has not clearly shown how predicted abstraction effects, including under drought and climate stress, affect those elements. Thirdly, it has not clearly disclosed the uncertainty margins which would allow the Commission to determine whether the conclusion remains safe under upper-bound or conservative assumptions.

The Applicant's statement that predicted hydrological changes are extremely small and within natural and operational variability may be relevant. It is not determinative. The legal question is whether deterioration of status, including at quality element level, is excluded. A physical change may be small in engineering terms and still material where a biological element is close to a class boundary or where a water body is already under pressure.

The Response also states that Ireland's improvement duties under the WFD are delivered through the River Basin Management Plan (RBMP) and Water Action Plan and sit at plan level. That is too narrow. A project-level assessment must still ensure that the project does not undermine or delay the achievement of those

objectives. The Commission should not treat recovery trajectory and ecological headroom as matters outside the project-level inquiry.

Article 7 WFD — Drinking Water Protected Area

To the extent that the Parteen Basin / Lower Lough Derg abstraction point is to be treated as a water body used, or intended to be used, for the abstraction of drinking water, the Commission should require the Applicant to identify where the specific obligations under Article 7 of the WFD — the protection of such waters so as to avoid deterioration in their quality in order to reduce the level of purification treatment required, in addition to the Article 4 objectives — have been assessed. This is raised as a matter requiring clarification, not as a freestanding claim of invalidity.

7. Biological Quality Elements and Class-Boundary Evidence

The absence of clearly identified BQE class-boundary evidence remains the central technical deficiency. The Applicant says biological, physico-chemical and hydromorphological quality elements were considered. The question is not whether they were mentioned. The question is where the Commission is given the numerical evidence which shows that deterioration cannot occur.

For each affected water body, the Commission should require a table showing current ecological status, each BQE classification, relevant supporting elements, current value, applicable class boundary, predicted post-abstraction value under average and peak abstraction, predicted value under climate-adjusted drought scenarios, uncertainty range, and the remaining margin to deterioration.

Without that table, the Commission is left to accept the Applicant's conclusion rather than test it. That is not an appropriate way to apply Article 4 WFD in a case involving abstraction from a regulated Shannon basin system.

8. UKTAG, EPA Classification and Hydromorphological Proxies

The Response clarifies that UKTAG lake-level thresholds are not statutory Irish standards and are not biological class-boundary metrics. That is an important concession in practical terms. It means that UKTAG is only a supporting hydrological indicator. It cannot be the determinative evidence of WFD biological status.

The Applicant says calibration of UKTAG thresholds against Irish EPA biological class-boundary metrics is not required because the assessment does not rely on UKTAG thresholds to determine ecological status. If so, the Commission must be directed to the assessment that does determine ecological status. That assessment should be explicit, Irish, biological, water-body-specific and linked to Annex V quality elements.

My original submission did not argue that UKTAG guidance is unlawful. The point is narrower. If a hydromorphological lake-level tool is used in a regulated river–lake–river system, it must not be treated as a proxy for biological security unless the link between the physical metric and the biological status conclusion is demonstrated.

9. Hydrology, Low-Flow, Drought and Climate Stress

The Applicant relies on modelling using historic data and a worst recorded drought scenario, including future climate change. That modelling may be significant, but the remaining questions are whether it is sufficiently

conservative, whether it captures sequential multi-year drought, whether it evaluates ecological responses rather than only water-level responses, and whether it discloses uncertainty.

The Response indicates that conventional Q95 low-flow metrics (the river flow equalled or exceeded 95 per cent of the time) are of limited direct application at the lake abstraction point. Even taken at its height, that answers only part of the issue at the abstraction point. It does not answer low-flow duration, exceedance and ecological effects in downstream riverine receptors and hydrologically connected European sites. The question should be reframed, not abandoned.

The Shannon system is already highly managed, with ESB operations, compensation flow, hydropower generation, navigation, flood management, ecological flows, fisheries interests and future climate stress all interacting. The Commission should require the Applicant to identify exactly how each of those operational variables is integrated into the hydrological and ecological assessment.

10. Article 4(7), Alternatives and Project Need

The Applicant's position is that Article 4(7) is not engaged because deterioration has been excluded. That is logically coherent only if the no-deterioration conclusion is itself lawful and evidence-based. If the Commission is not satisfied that deterioration has been excluded, the absence of a formal Article 4(7) assessment becomes legally material.

The Applicant relies heavily on the National Water Resources Plan (NWRP) and Eastern and Midlands Plan for strategic alternatives. Those documents may explain the development of the preferred option. They do not remove the Commission's obligation to consider whether this project satisfies project-level EIA, WFD and Habitats Directive requirements.

If Article 4(7) is engaged, the relevant alternatives question is not simply whether alternatives were previously considered. It is whether the beneficial objectives served by the project can be achieved by other means which are technically feasible, not disproportionately costly, and significantly better environmentally. That question must be answered at the same evidential level as the proposed abstraction.

The Applicant's treatment of alternatives cannot be separated from its no-deterioration finding. It states, in terms, that Article 4(7) "is a test for a derogation", that it "is not a general requirement that applies to all abstractions", and that it is triggered only where deterioration is predicted (Response, paragraphs 2943–2944); and it confirms that, because it predicts no deterioration, it has undertaken no Article 4(7) assessment (paragraph 2933). The consequence is that the Applicant has not carried out the rigorous, equal-footing comparison of alternatives that Article 4(7)(d) requires — the demonstration that the objective cannot be achieved by "significantly better environmental options", assessed to equivalent evidential depth. That comparison is switched off only by a lawful finding that deterioration is excluded. If that finding cannot be made, for the reasons given in Sections 6 to 9 and 11 to 13, Article 4(7) is engaged and the equal-footing alternatives assessment is, on the Applicant's own account, absent.

Separately, and whether or not Article 4(7) is engaged, the Applicant's reliance on the National Water Resources Plan and the Eastern and Midlands Plan does not discharge the project-level obligation. The alternatives the EIA Directive requires to be described are those "relevant to the project and its specific characteristics" (Article 5(1)(d)); the obligation is project-specific. A higher-tier, plan-level assessment cannot be used to circumvent the assessment required at the relevant tier (Case C-671/16 Inter-Environnement Bruxelles), and reliance on such tiering is lawful only where the plan-level assessment

sufficiently took the relevant interests into account (Case C-43/18 CFE). A strategic plan that selects a preferred source does not, and does not purport to, carry out a project-level, water-body-specific comparison of supply strategies. The same is true of the substantive obligations that attach to the individual authorisation: the non-deterioration duty under Article 4 WFD applies at the project consent stage (Case C-461/13 Weser), and a plan-level appropriate assessment does not remove the need for a complete project-level assessment under Article 6(3) (Case C-254/19 Friends of the Irish Environment). Plan-level history is relevant, but it is not a substitute for the project-level analysis the Directives require.

11. Abstraction Licence Interface and ESB Impoundment Dependency

This is one of the strongest procedural and legal weaknesses in the record. The Applicant states that the abstraction is to be authorised by the EPA, that ACP cannot determine or condition the abstraction, and that the abstraction licence application is dependent on an ESB application for the existing impoundment. At the same time, the planning application asks the Commission to consent physical infrastructure whose purpose and environmental effects depend on the abstraction.

The Applicant also states that for planning purposes it is not correct to treat the ESB impoundment and the Proposed Project as “the whole project” because the impoundment is existing and separately consented. The issue is not whether the Ardnacrusha scheme must be re-consented in this planning application. The issue is whether the operational dependency is so central that the cumulative and interface assessment must be explicit, enforceable and complete.

The proposed abstraction is described as water that would otherwise be used for hydropower generation. ESB will continue to manage water levels and will take account of the abstraction alongside compensation flow, rainfall, demand for power and operating practices. This confirms that the project is operationally dependent on ESB management. The Commission should not treat that dependency as background only.

The interface difficulty is not a matter of inference; it is established by the Applicant’s own words. The Response states that the abstraction licence “will provide for ongoing regulation and control of flows outside of this SID” (Response to Submissions, paragraph 2863), and that the operational management of the abstraction, “including protection of ecological status”, is conditioned by the EPA (paragraph 2892). It states, in terms, that the Commission “cannot determine or condition the abstraction” (paragraph 104).

Taken together, these statements expose the core of the problem. The Commission is asked to be satisfied now that the abstraction will not cause deterioration under Article 4, while the very controls on which Article 4 compliance in operation depends — the permitted volumes, the curtailment rules, the drought-management regime and the ecological protections — are, on the Applicant’s own case, to be fixed later, by a different body, in a licence process that has not yet been applied for, that is contingent on a separate ESB impoundment application not yet made, and that the Commission cannot influence. A no-deterioration conclusion cannot lawfully rest on operating parameters that are neither before the Commission nor within its power to secure.

This concern is reinforced by Case C-204/24 Commission v Ireland. Among the failures found by the Court was that Ireland had not adequately transposed the controls on water abstraction required to give effect to the Water Framework Directive. Where the domestic abstraction-control framework has itself been found deficient, the Commission should be slow to treat the future EPA licence as a sufficient guarantee that Article 4 compliance will be secured at the operational stage.

The whole project and impermissible project-splitting

The EIA Directive requires assessment of the whole project, and a project may not be split so as to avoid assessment of its cumulative effects. On the Applicant's own description the Proposed Project is operationally integrated with the existing Shannon/Ardnacrusha scheme: it abstracts water that would otherwise pass through the ESB's hydropower system, and it depends on ESB water-level management, the statutory compensation flow, and the associated impoundment. The Applicant nonetheless treats the ESB impoundment and abstraction operation as outside the 'whole project' for the purposes of this EIA, on the basis that the impoundment is an existing, separately consented structure.

That position does not answer the EU-law question. Works that modify or change the operation of existing infrastructure may require assessment of the wider project (Case C-2/07 Abraham), and the purpose of the EIA Directive cannot be circumvented by splitting a project or by failing to assess cumulative effects (Case C-142/07 Ecologistas en Acción-CODA; Case C-205/08 Umweltanwalt von Kärnten; O'Grianna v An Bord Pleanála). Where the new project alters how the existing scheme is operated and is functionally dependent upon it, the Commission must be satisfied that the EIA and the Appropriate Assessment before it assess the whole project — including the abstraction operation and its interaction with the ESB scheme — and it may not rely on a separate, later ESB or EPA process to assess effects that are integral to this project.

12. Appropriate Assessment and Natura Issues

The Habitats Directive issues must be kept distinct from the WFD issues. Under Article 6(3), the Commission must be able to conclude that the project will not adversely affect the integrity of any European site in view of its conservation objectives. That conclusion must be based on complete, precise and definitive findings capable of removing reasonable scientific doubt.

The Applicant's repeated reliance on hydrological modelling does not automatically satisfy that test. Where qualifying interests are dependent on flow, water quality, migration, spawning, supporting habitat, ex-situ habitat or downstream conditions, the assessment must show the ecological pathway from project effect to conservation objective.

The Supplementary Response raises a further point on Golden Plover and ex-situ use around the Termination Point Reservoir. South Dublin County Council requested detailed surveying to determine whether birds using fields in the vicinity could be an ex-situ population from Natura 2000 sites. The Applicant responds by relying on survey variability and the most recent absence. That may be right, but if it is to support a no-adverse-effect conclusion, the Commission must be satisfied that the survey record is current, sufficient and connected to the relevant conservation objectives.

The same admissions by the Applicant that arise under the Water Framework Directive bear separately, and in my respectful submission decisively, on the Habitats Directive. Under Article 6(3), the competent authority may agree to a project only after ascertaining, on the basis of complete, precise and definitive findings and with no reasonable scientific doubt, that it will not adversely affect the integrity of the European site — and that ascertainment must be made before consent is granted. It cannot be postponed to, or made contingent upon, controls to be fixed at a later stage (Case C-127/02 Waddenzee; Case C-441/17 Commission v Poland (Białowieża Forest)). Yet the Applicant's own position is that the abstraction volumes, curtailment rules and ecological protections — the very controls on which the absence of adverse effect depends — are to be determined later by the EPA in the abstraction licence, in a process not yet commenced and which the Commission cannot condition (Response, paragraphs 104, 2863 and 2892). A no-adverse-

effect conclusion that rests on controls not yet fixed, and outside the Commission's power to secure, does not meet the Article 6(3) standard.

13. Mitigation, Adaptive Management and Deferred Compliance

The Applicant relies on mitigation measures, Construction Environmental Management Plan (CEMP) commitments, the Register of Environmental Actions and Commitments (REAC), pre-commencement documents, local authority compliance frameworks, adaptive abstraction management and the future EPA abstraction licence. Some of these measures may be appropriate as implementation tools. They are not substitutes for assessment at consent stage.

Where mitigation is necessary to reach a no-significant-effect, no-adverse-effect or no-deterioration conclusion, the measure must be sufficiently defined, enforceable, measurable and certain. A future contractor's CEMP update, or a statement that environmental protection will not be reduced, does not by itself identify the operational threshold that will protect a receptor.

The adaptive management response is particularly important. The Applicant says abstraction will be curtailed if water levels approach minimum required levels, depending on the starting water level, expected drought duration and drinking water demand. The Commission should require objective curtailment triggers, ecological triggers, decision-making authority, timing, enforceability and public reporting before relying on this approach.

14. Public Participation, Procedural Fairness and Oral Hearing

The project is one of the largest water infrastructure proposals ever brought forward in the State. It engages multiple counties, a major river system, a SAC, the WFD, an abstraction licensing regime, a parallel CPO process and a separate ESB impoundment licensing issue. The technical documentation is extensive and highly specialised.

The Commission's letters create an opportunity to respond to the Applicant's May and June material. The correction of the response date to 21 July 2026 reduces the practical time available to analyse a very large response file and a supplementary report. I do not say this invalidates the process. I do say that it reinforces the case for further information and an oral hearing.

An oral hearing is justified because many of the remaining issues are not best resolved by paper assertion. The Commission should be able to ask the Applicant and relevant experts, in public, where the BQE class-boundary margins are, how the abstraction licence interfaces with planning permission, how adaptive curtailment will operate, and how future environmental flow restoration is protected.

15. Recent Developments and Matters Arising Since the Original Submission

Since the original submission, a number of public developments have occurred which are relevant to the Commission's overall approach. I do not rely on them as freestanding grounds of objection. I rely on them as reasons for heightened scrutiny.

First, the Commission’s case page records that the case is now due to be decided by 2 July 2027¹. The extended decision timeframe is consistent with the scale and complexity of the case.

Secondly, Uisce Éireann has stated publicly that procurement and tendering are progressing in parallel with planning², following approval of the Detailed Business Case by the Uisce Éireann board and Government noting. Uisce Éireann has also published a cost estimate of between €4.58 billion and €5.96 billion and a claimed benefit-cost ratio in excess of €10 for every €1 of project cost³. The Commission should ensure that procurement momentum, sunk cost, programme pressure or delivery readiness carries no weight in the application of mandatory EU environmental tests.

Thirdly, the CJEU judgment in Case C-204/24 Commission v Ireland, delivered on 20 November 2025, found failures by Ireland to fully and correctly transpose several provisions of the Water Framework Directive, including its controls on water abstraction⁴. That judgment reinforces the need for the Commission to apply the Directive and CJEU case law carefully and directly, rather than relying on domestic process or general assertions of compliance, and it bears directly on the abstraction-licence interface described in Section 11.

Fourthly, EPA abstraction guidance confirms that abstractions at or above 2,000 m³ per day require a licence and that a new abstraction cannot commence until the licence is granted⁵. The abstraction licence is therefore not peripheral to the project; it is central to the legal operation of the proposed abstraction.

Fifthly, on 25 May 2026 Waterways Ireland issued Marine Notice No. 56 of 2026, a “Shannon Navigation – Low Water Levels Advisory”, warning that water levels had dipped below Ordinary Summer Levels owing to low seasonal rainfall and that the cautionary warning was “likely to remain for some time”⁶. This does not prove project harm; it demonstrates that low-water stress on the system is not hypothetical, and — because it post-dates the Applicant’s modelling — it is precisely the kind of recent observed condition against which the conservatism of that modelling should be tested.

These recent conditions also engage the requirement, under the EIA Directive, that the reasoned conclusion of the environmental impact assessment be current at the time of the decision. With the decision not now due until 2027, and with low-water conditions observed on the Shannon Navigation in May 2026 (Marine Notice No. 56 of 2026), the Commission should not rely on modelling that observed conditions may have overtaken without first satisfying itself, on current evidence, that the conclusions remain valid.

Sixthly, Ireland’s Water Action Plan 2024 emphasises the need to protect and restore water quality and identifies nutrients, inadequately treated wastewater, barriers and drainage as pressures. This supports the

¹ An Coimisiún Pleanála, case reference ACP-323980-25; the Commission has indicated it intends to determine the application before 2 July 2027.

² Houses of the Oireachtas, Joint Committee on Infrastructure, evidence of Uisce Éireann on the Water Supply Project (Eastern and Midlands Region), 24 June 2026.

³ Uisce Éireann, Water Supply Project (Eastern and Midlands Region): published cost estimate €4.58–€5.96 billion; procurement (Pre-Qualification Questionnaire) and Detailed Business Case advanced in parallel with the planning process.

⁴ Case C-204/24 Commission v Ireland, judgment of 20 November 2025 (Ninth Chamber): Ireland found to have failed to transpose fully and correctly several provisions of Directive 2000/60/EC, including controls on abstraction.

⁵ Environmental Protection Agency, water abstraction registration and licence application guidance (2026); Water Environment (Abstractions and Associated Impoundments) Act 2022 (licensing threshold 2,000 m³/day).

⁶ Waterways Ireland, Marine Notice No. 56 of 2026, ‘Shannon Navigation – Low Water Levels Advisory’, 25 May 2026 (Inspector of Navigation).

need to consider cumulative ecological headroom and recovery trajectory, not simply immediate water-level compliance.

16. Relief Sought

For the reasons set out above, I respectfully request that the Commission not grant permission on the present record unless and until the matters identified in this submission are resolved.

In particular, I request that the Commission require further information addressing the Water Framework Directive, Appropriate Assessment, abstraction licensing interface, ESB impoundment dependency, future environmental flow restoration, drought and climate stress, and the enforceability of mitigation and adaptive management.

I further request that the Commission hold an oral hearing. The case is of exceptional scale and public importance. The unresolved issues are technical, legal and evidential. They require examination in public, with the opportunity for the Commission and parties to ask direct questions of the Applicant's experts.

If, after further information and/or oral hearing, the Commission is not satisfied that WFD deterioration has been excluded, that European site integrity will not be adversely affected, and that the EIAR provides the information required by law, permission ought to be refused.

Schedule A: Forensic Issue Sheets

For all issue sheets below, a responsive answer means the identification of a specific chapter, section, paragraph, table or figure, or confirmation that the information does not exist. A statement that an issue has been 'addressed', 'assessed' or 'demonstrated', or a cross-reference to a whole chapter or report, is not treated as a responsive answer unless it identifies the underlying evidence. This standard applies to every issue below and is not repeated in each sheet.

The following issue sheets identify specific matters which, in my submission, remain unanswered or inadequately answered by the Applicant's May and June responses. Each issue sheet is intended to assist the Commission by separating the Applicant's position from the remaining evidential question.

Group A — The Applicant's response method

Issue Sheet 1: Response method and thematic grouping

Issue: Response method and thematic grouping

Applicant position: The Applicant states that submissions were grouped by theme and that substantive material issues were addressed rather than every submission line by line.

Adequacy assessment: Partly adequate for general submissions, but inadequate for forensic questions requiring specific evidence.

Why this is material: My original submission asked for specific WFD evidence, not general thematic reassurance. A grouped response risks losing the precise questions.

Further submission: The Commission should require the Applicant to identify, by document, section, paragraph and table, where each requested item of evidence is provided.

Oral hearing question: Will the Applicant provide a cross-reference schedule answering each question in Appendix B of the original submission, identifying the specific paragraph, table or figure relied on for each?

Issue Sheet 2: AI-assisted theming of submissions

Issue: AI-assisted theming of submissions

Applicant position: The Response records that an initial review was undertaken using ChatGPT and then manually audited.

Adequacy assessment: Not objectionable in itself, but relevant to whether precise technical submissions were properly understood.

Why this is material: The issue is not the tool but the risk that complex legal and scientific questions were reduced to broad topic headings.

Further submission: The Commission should satisfy itself that submissions raising precise WFD, AA and modelling questions were not merely grouped into generic headings.

Oral hearing question: How did the Applicant verify that WSP_SUB_17's BQE and class-boundary questions were individually answered?

Issue Sheet 3: Substitution of conclusions for evidence

Issue: Substitution of conclusions for evidence

Applicant position: The Applicant repeatedly states that modelling demonstrates no deterioration or no adverse effect.

Adequacy assessment: Conclusive rather than evidential unless the underlying numerical pathway is identified.

Why this is material: The Commission must be able to test the conclusion, not merely read it.

Further submission: The Applicant should identify the data, thresholds, uncertainty bands and reasoning chain supporting each no-deterioration conclusion.

Oral hearing question: Where is the evidential chain from model output to WFD status conclusion set out?

Issue Sheet 4: Reliance on cross-references

Issue: Reliance on cross-references

Applicant position: The Response often refers back to EIAR, NIS, WSIAR and May report sections.

Adequacy assessment: Cross-references are useful only if they lead to the specific answer sought.

Why this is material: A reference to an entire chapter is not a finding and may not allow a third party or court to understand the reasoning.

Further submission: The Commission should require precise references to the table, paragraph and figure containing the requested evidence.

Oral hearing question: Can the Applicant provide exact paragraph/table references for each BQE margin and uncertainty band?

Group B — WFD legal test, deterioration and Biological Quality Elements

Issue Sheet 5: Correct WFD legal test

Issue: Correct WFD legal test

Applicant position: The Applicant says Article 4 is an objective evidence-based assessment, not a zero-uncertainty test.

Adequacy assessment: Correct as far as it goes, but it does not reduce the need for objective evidence.

Why this is material: The concern is not that the Applicant failed to meet an impossible standard; it is that the necessary evidence has not been identified.

Further submission: The legal test should be applied through objective, water-body-specific evidence rather than broad assertions of compliance.

Oral hearing question: What objective evidence excludes deterioration for each affected water body?

Issue Sheet 6: Weser and quality element deterioration

Issue: Weser and quality element deterioration

Matter arising: The Applicant recognises CJEU jurisprudence but does not clearly provide quality-element margins.

Adequacy assessment: Partly answered; the legal principle is acknowledged but the evidential application is unclear.

Why this is material: Under Weser, quality element deterioration matters even if overall status remains unchanged.

Further submission: The Applicant should provide a quality-element-by-quality-element deterioration assessment.

Oral hearing question: For each quality element, what is the predicted status before and after the abstraction?

Issue Sheet 7: Correction of C-535/18 citation

Issue: Correction of C-535/18 citation

Applicant position: The original submission incorrectly referred to C-535/18 as Moorburg.

Adequacy assessment: Corrected in this further submission.

Why this is material: Accuracy of authorities matters. The WFD argument remains grounded in Weser, not the misnamed case.

Further submission: The Commission should read the original WFD submission as relying principally on Weser and the WFD text.

Oral hearing question: Does the Applicant accept that Weser governs deterioration at quality element level?

Issue Sheet 8: C-535/18 Land Nordrhein-Westfalen

Issue: C-535/18 Land Nordrhein-Westfalen

Matter arising: The Applicant has not squarely addressed the relevance of public access to WFD information and testable assessment.

Adequacy assessment: Not fully answered.

Why this is material: A public process must provide enough WFD information for meaningful scrutiny.

Further submission: The WSIAR should be presented in a way that allows the public and Commission to test deterioration risk.

Oral hearing question: Where is the public-facing matrix of WFD deterioration risk by quality element?

Issue Sheet 9: Biological Quality Element schedule

Issue: Biological Quality Element schedule

Applicant position: The Applicant says biological quality elements were considered.

Adequacy assessment: Not enough without a clear BQE schedule.

Why this is material: Article 4 is applied through status and quality elements. The Commission requires a clear status schedule.

Further submission: Provide a table for each affected water body showing each BQE, status, class boundary and predicted effect.

Oral hearing question: Where is the BQE schedule for the Shannon system?

Issue Sheet 10: Class-boundary proximity and resilience margins

Issue: Class-boundary proximity and resilience margins

Applicant position: The Applicant relies on modelled physico-chemical and hydrological stability and on small predicted changes said to lie within natural variability.

Adequacy assessment: Inadequate. Neither the numerical proximity of each element to its class boundary, nor the margin remaining after abstraction, is identified.

Why this is material: A water body close to a class boundary, or with a narrow margin, can deteriorate on a small change; distance to the boundary and post-abstraction margin are therefore decisive.

Further submission: The Applicant should disclose, for each relevant biological quality element, the numerical distance to the class boundary and the margin remaining under average, 300 MI/d peak and climate-adjusted drought scenarios.

Oral hearing question: What is the numerical margin to the relevant class boundary for each element under 300 MI/d and climate-adjusted drought?

Issue Sheet 11: Uncertainty bands and upper-bound testing

Issue: Uncertainty bands and upper-bound testing

Applicant position: The Applicant relies on selected modelled scenarios.

Adequacy assessment: Inadequate. Uncertainty bands for critical outputs, and combined upper-bound scenarios, are not disclosed on the face of the Response.

Why this is material: The Commission cannot apply the precautionary principle without knowing model uncertainty and the plausible worst case.

Further submission: The Applicant should provide confidence intervals for key hydrological and ecological outputs, and run or disclose upper-bound scenarios combining drought, climate stress and high demand.

Oral hearing question: If upper-bound uncertainty is applied, combining drought, climate stress and high demand, does any element approach a deterioration threshold?

Issue Sheet 12: Biological response to hydrograph alteration

Issue: Biological response to hydrograph alteration

Applicant position: The Applicant focuses heavily on water levels and flows.

Adequacy assessment: Inadequate unless linked to biological response.

Why this is material: WFD deterioration is a biological and ecological question, not only a water-level question.

Further submission: The Applicant should identify how fish, macroinvertebrates, macrophytes and phytoplankton respond to altered hydrograph and low-flow duration.

Oral hearing question: Has biological response been directly modelled or inferred from hydrological stability?

Issue Sheet 13: UKTAG status and calibration

Issue: UKTAG status and calibration

Applicant position: The Applicant clarifies that UKTAG thresholds are not statutory Irish standards or biological class-boundary metrics, and says empirical calibration against Irish biological class boundaries is not required.

Adequacy assessment: The clarification is significant but creates the decisive evidential gap: if UKTAG is not determinative and is not calibrated to Irish biology, the determinative biological evidence must be identified elsewhere.

Why this is material: A hydrological proxy that is neither a statutory standard nor calibrated to biological class boundaries cannot, by itself, prove no deterioration under Article 4.

Further submission: The Applicant should identify the Irish EPA biological assessment that performs the WFD compliance function, and the Commission should not accept a UKTAG pass as the decisive WFD proof.

Oral hearing question: What Irish biological evidence, not UKTAG, performs the determinative WFD compliance function, and where is it?

Issue Sheet 14: Q95 and lake abstraction

Issue: Q95 and lake abstraction

Applicant position: The Applicant says Q95 is not relevant because the abstraction is from a lake water body.

Adequacy assessment: Partly answered.

Why this is material: This may address the abstraction point but not downstream riverine receptors or low-flow ecological duration.

Further submission: The issue should be reframed as low-flow duration and downstream riverine ecological stress.

Oral hearing question: How were downstream low-flow exceedance and duration effects assessed?

Group C — Drought, climate and water quality

Issue Sheet 15: Sequential multi-year drought

Issue: Sequential multi-year drought

Applicant position: The Applicant refers to the worst drought on record and climate change allowance.

Adequacy assessment: Partly answered but not enough unless sequential drought is addressed.

Why this is material: Climate change may produce multi-year deficits outside historic single-year analogues.

Further submission: The Applicant should model two-year and three-year drought sequences with high abstraction demand.

Oral hearing question: Were sequential droughts tested, and what were the outputs?

Issue Sheet 16: Use of 2018 drought as worst case

Issue: Use of 2018 drought as worst case

Applicant position: The Applicant uses 2018 as a worst recorded drought case in parts of the assessment.

Adequacy assessment: Potentially relevant but not necessarily conservative for 2050 climate.

Why this is material: The legally material question is not past worst only, but future plausible worst.

Further submission: The Applicant should explain why 2018 plus climate allowance remains conservative for 2050 and beyond.

Oral hearing question: Why is the selected drought scenario sufficient for future climate conditions?

Issue Sheet 17: Climate assumptions

Issue: Climate assumptions

Applicant position: The Applicant states future climate change was included.

Adequacy assessment: Insufficient without assumptions and sensitivity ranges.

Why this is material: Climate assumptions can determine whether a model is conservative.

Further submission: The Applicant should disclose scenario selection, assumptions, confidence ranges and sensitivity outputs.

Oral hearing question: What climate scenario, emissions pathway and hydrological translation were used?

Issue Sheet 18: Nutrient concentration

Issue: Nutrient concentration

Applicant position: The Applicant says water quality changes are minimal and neutral.

Adequacy assessment: Partly answered; biological sensitivity and low-flow concentration remain unclear.

Why this is material: Reduced dilution during low flows may affect nutrients and algal dynamics.

Further submission: The Applicant should provide nutrient concentration modelling under drought plus abstraction and biological sensitivity assessment.

Oral hearing question: How are orthophosphate, nitrogen, temperature and algal risk affected under low-flow conditions?

Issue Sheet 19: Dissolved oxygen and temperature

Issue: Dissolved oxygen and temperature

Applicant position: The Applicant refers to water quality modelling.

Adequacy assessment: Not fully answered unless DO and temperature under drought are clearly shown.

Why this is material: DO and temperature are key ecological stressors during low flow.

Further submission: The Applicant should disclose summer low-flow DO and temperature outputs with abstraction.

Oral hearing question: What are the worst-case DO and temperature outputs under peak abstraction?

Issue Sheet 20: Downstream estuary and salinity

Issue: Downstream estuary and salinity

Applicant position: The Supplementary Response cross-refers downstream effects to earlier sections.

Adequacy assessment: Not a specific answer.

Why this is material: Changes in freshwater input can be relevant to transitional waters and estuarine ecology.

Further submission: The Applicant should identify how estuarine salinity and downstream transitional waters were assessed.

Oral hearing question: Was altered salinity regime in the estuary modelled?

Group D — Flows, recovery and Articles 4(7)–4(9)

Issue Sheet 21: Old River Shannon compensation flow

Issue: Old River Shannon compensation flow

Applicant position: The Applicant says the 10 m³/s statutory compensation flow will be maintained.

Adequacy assessment: Partly answered.

Why this is material: Maintaining the existing statutory minimum may not prove that ecological objectives are met or that future restoration is protected.

Further submission: The Commission should ask whether the project constrains any future increase in compensation or environmental flows.

Oral hearing question: Does the abstraction reduce headroom to increase compensation flow in future?

Issue Sheet 22: Future environmental flow restoration

Issue: Future environmental flow restoration

Applicant position: The Applicant says future flow changes would be decided through RBMP, national policy or regulation.

Adequacy assessment: Inadequate if the project narrows future restoration options.

Why this is material: The issue is whether the project constrains future ecological restoration, not who would decide it.

Further submission: The Applicant should demonstrate that the project does not reduce practical or legal ability to restore more naturalised flows.

Oral hearing question: Can future environmental flows be increased without curtailing the project?

Issue Sheet 23: RBMP recovery trajectory

Issue: RBMP recovery trajectory

Applicant position: The Applicant says strategic improvement duties sit at plan level.

Adequacy assessment: Too narrow.

Why this is material: Project-level consent must not undermine or delay RBMP objectives.

Further submission: The Applicant should quantify whether abstraction affects improvement timelines or ecological headroom.

Oral hearing question: Does the project delay attainment of good status in any water body?

Issue Sheet 24: Article 4(8) non-compromise

Issue: Article 4(8) non-compromise

Matter arising: The Response does not clearly show basin-wide Article 4(8) analysis.

Adequacy assessment: Unanswered or insufficient.

Why this is material: A project must not compromise objectives in other water bodies.

Further submission: The Applicant should provide a basin district non-compromise schedule.

Oral hearing question: Which connected water bodies were assessed under Article 4(8)?

Issue Sheet 25: Article 4(9) consistency with Habitats Directive

Issue: Article 4(9) consistency with Habitats Directive

Applicant position: The Applicant addresses WFD and Habitats separately.

Adequacy assessment: Partly answered but integration remains unclear.

Why this is material: Article 4(9) requires consistency with other environmental legislation.

Further submission: The Applicant should cross-map WFD water-body conclusions to Natura conservation objectives.

Oral hearing question: Where is the WFD-to-Natura consistency matrix?

Issue Sheet 26: Article 4(7) not engaged

Issue: Article 4(7) not engaged

Applicant position: The Applicant says Article 4(7) is not required because no deterioration is predicted.

Adequacy assessment: Conditionally adequate only if no deterioration is lawfully excluded.

Why this is material: If uncertainty remains, Article 4(7) becomes legally material.

Further submission: The Commission should require an Article 4(7) screening statement as a safeguard.

Oral hearing question: Has any internal Article 4(7) screening been undertaken?

Group E — Alternatives

Issue Sheet 27: Alternatives at equivalent depth

Issue: Alternatives at equivalent depth

Applicant position: The Applicant relies on historic strategic alternatives analysis.

Adequacy assessment: Insufficient if Article 4(7) is engaged.

Why this is material: Article 4(7)(d) requires the objective to be shown incapable of achievement by significantly better environmental options, assessed to equivalent evidential depth. The Applicant expressly treats this as a derogation test that is not triggered because it predicts no deterioration (Response, paragraphs 2943–2944), and confirms it has undertaken no such assessment (paragraph 2933). The equal-footing alternatives comparison therefore stands or falls with the no-deterioration finding.

Further submission: If deterioration cannot be excluded, the Applicant should compare alternative supply strategies at equivalent environmental, carbon, cost and deliverability depth, as Article 4(7)(d) requires.

Oral hearing question: Were alternatives modelled to the same temporal and ecological resolution as the abstraction?

Issue Sheet 28: NWRP not determinative

Issue: NWRP not determinative

Applicant position: The Applicant relies heavily on the NWRP and Eastern and Midlands Plan.

Adequacy assessment: Contextual but not determinative.

Why this is material: A plan-level assessment cannot be used to circumvent the obligation at project level (Case C-671/16 Inter-Environnement Bruxelles), and reliance on tiering is lawful only where the plan-level assessment sufficiently addressed the relevant interests (Case C-43/18 CFE). The EIA alternatives duty is project-specific (Article 5(1)(d)); WFD non-deterioration attaches to the project consent (Weser, C-461/13); and Article 6(3) requires a complete project-level assessment (Friends of the Irish Environment, C-254/19).

Further submission: The Commission should treat the NWRP as relevant history, not as discharging the project-level alternatives, EIA, AA or WFD obligations, and should require the project-level analysis that remains.

Oral hearing question: What project-level alternatives analysis remains after the NWRP selection?

Issue Sheet 29: Leakage reduction

Issue: Leakage reduction

Applicant position: The Applicant says leakage reduction is parallel and not an alternative.

Adequacy assessment: Partly answered, but insufficient for Article 4(7) or EIA alternatives if deterioration risk remains.

Why this is material: Leakage reduction may not replace all supply, but it may reduce abstraction scale, timing or environmental risk.

Further submission: The Applicant should compare accelerated leakage reduction as part of a phased or reduced abstraction scenario.

Oral hearing question: What reduction in peak abstraction could accelerated leakage reduction achieve?

Issue Sheet 30: Demand management

Issue: Demand management

Applicant position: The Applicant treats demand management within strategic planning.

Adequacy assessment: Not fully answered at project level.

Why this is material: Demand management may alter need, scale, phasing and environmental risk.

Further submission: Provide updated demand management scenarios reflecting current policy, data centre constraints and conservation measures.

Oral hearing question: How would aggressive demand management affect the 2050 peak deficit?

Issue Sheet 31: Desalination comparison

Issue: Desalination comparison

Applicant position: The Applicant says desalination was strategically considered and rejected.

Adequacy assessment: Not enough if Article 4(7) is reached.

Why this is material: Desalination may have higher energy impacts but lower Shannon ecological risk; both sides require transparent comparison.

Further submission: Provide equivalent cost, carbon, ecological and resilience comparison.

Oral hearing question: Was desalination assessed to the same detail as the Shannon abstraction for Article 4(7) purposes?

Issue Sheet 32: Diversified supply

Issue: Diversified supply

Applicant position: The Applicant favours a single Shannon source with transfers.

Adequacy assessment: Not fully answered.

Why this is material: Diversified supply could reduce ecological concentration risk in one basin.

Further submission: The Applicant should assess whether a diversified portfolio would reduce Shannon basin pressure.

Oral hearing question: Was ecological concentration risk compared across supply portfolios?

Issue Sheet 33: Future offtakes and later projects

Issue: Future offtakes and later projects

Applicant position: The NTS states provision is made for future take-off points and future connections through separate projects.

Adequacy assessment: Potentially creates cumulative assessment issue.

Why this is material: Future connections may increase system dependence and should be assessed as reasonably foreseeable where sufficiently defined.

Further submission: The Commission should require clarity on future connections and cumulative implications.

Oral hearing question: Which future offtakes are reasonably foreseeable and how were they assessed?

Group F — Cost, procurement and community

Issue Sheet 34: Procurement momentum

Issue: Procurement momentum

Matter arising: Uisce Éireann has publicly stated that procurement is progressing in parallel with planning.

Adequacy assessment: Not unlawful in itself but procedurally relevant.

Why this is material: The Commission must not be influenced by delivery momentum or procurement readiness.

Further submission: The Commission should expressly disregard sunk cost and procurement progress when applying EU environmental tests.

Oral hearing question: Can the Applicant confirm no procurement commitment prejudices the planning decision?

Issue Sheet 35: Cost-benefit claims

Issue: Cost-benefit claims

Applicant position: The Applicant refers to a €4.58bn–€5.96bn cost estimate and claimed benefit-cost ratio exceeding €10 per €1.

Adequacy assessment: Relevant to policy, not a substitute for legal compliance.

Why this is material: Economic benefit cannot cure WFD or Habitats failure.

Further submission: The Commission should treat cost-benefit only within lawful planning balance and not as a reason to relax mandatory tests.

Oral hearing question: What independent sensitivity analysis supports the claimed benefit-cost ratio?

Issue Sheet 36: Authorised spend and sunk cost

Issue: Authorised spend and sunk cost

Matter arising: Public record indicates ministerial consent to spend up to €68.02m at PBC stage; exact current spend is not clearly identified here.

Adequacy assessment: Relevant only to process integrity.

Why this is material: Sunk expenditure must not influence the application of mandatory legal tests.

Further submission: The Commission should state that expenditure to date is irrelevant to WFD and Habitats compliance.

Oral hearing question: What expenditure has been incurred, and is any of it being relied upon in the planning balance?

Issue Sheet 37: Community benefit scheme

Issue: Community benefit scheme

Applicant position: The Applicant presents a community benefit scheme and local authority administration.

Adequacy assessment: Not environmental mitigation.

Why this is material: Community gain cannot offset WFD deterioration or adverse effects on European sites.

Further submission: The Commission should separate community benefit from environmental compliance.

Oral hearing question: Is any community benefit being relied upon to justify environmental risk?

Group G — Consent, licensing and the whole project

Issue Sheet 38: Split consent

Issue: Split consent

Applicant position: The Applicant says the EPA will authorise the abstraction and ACP cannot condition it.

Adequacy assessment: Major unresolved interface issue.

Why this is material: The physical project and operational abstraction are inseparable in environmental terms.

Further submission: The Commission should not grant permission unless the EPA licensing interface is legally and practically resolved.

Oral hearing question: How can ACP consent the project while unable to condition the abstraction?

Issue Sheet 39: EPA abstraction licence timing

Issue: EPA abstraction licence timing

Applicant position: The Applicant intends to apply for the abstraction licence after the ESB impoundment application.

Adequacy assessment: Creates sequencing uncertainty.

Why this is material: The planning decision may precede the operative licence that controls environmental operation.

Further submission: The Commission should require clarity from EPA and ESB before determination.

Oral hearing question: Has the EPA indicated how it will coordinate with ACP on this application?

Issue Sheet 40: ESB impoundment licence dependency

Issue: ESB impoundment licence dependency

Applicant position: The Applicant says its licence application depends on an ESB application for the existing impoundment.

Adequacy assessment: Material dependency.

Why this is material: The project depends on an associated impoundment outside the planning consent but central to operation.

Further submission: The Commission should require the ESB licence position and any proposed conditions to be before it.

Oral hearing question: What happens if the ESB licence conditions differ from the planning assumptions?

Issue Sheet 41: Ardnacrusha operational dependency

Issue: Ardnacrusha operational dependency

Applicant position: The Applicant says water will be diverted from flow otherwise used for electricity generation.

Adequacy assessment: Confirms operational interdependence.

Why this is material: The project depends on ESB operating practice and hydropower management.

Further submission: The cumulative and operational assessment should explicitly integrate ESB rules, constraints and future licence conditions.

Oral hearing question: What enforceable agreement governs ESB operation with the abstraction?

Issue Sheet 42: “Same water” argument

Issue: “Same water” argument

Applicant position: The Applicant says the abstraction uses water already abstracted for hydropower.

Adequacy assessment: Potentially relevant but not decisive.

Why this is material: Changing water use may change timing, quality, ecological effect or restoration headroom even if gross volume is already regulated.

Further submission: The Commission should examine ecological function, not only gross flow ownership.

Oral hearing question: Does diversion from hydropower to potable supply change timing, priority or curtailment?

Issue Sheet 43: Whole project and project-splitting

Issue: Whether the EIA and AA assess the whole project, including the abstraction operation and its interaction with the ESB/Ardnacrusha scheme.

Applicant position: The Applicant says the ESB impoundment and abstraction operation are outside the whole project because the impoundment is existing and separately consented.

Adequacy assessment: Inadequate. It does not answer the EU-law test for identifying the whole project, and existing infrastructure may be central to cumulative and indirect effects.

Why this is material: A project may not be split to avoid assessing combined effects, and works that change the operation of existing infrastructure may require assessment of the whole (Abraham, C-2/07; Ecologistas en Acción-CODA, C-142/07; Umweltanwalt von Kärnten, C-205/08; O’Grianna v An Bord Pleanála). The abstraction changes how the Ardnacrusha scheme is operated and depends upon it.

Further submission: The Commission should require the assessment to address the whole project, including the abstraction operation and its interaction with the ESB scheme, and should not rely on a separate, later ESB or EPA process for effects integral to this project.

Oral hearing question: Why is the abstraction operation treated as outside the whole project, given that the project changes how the Ardnacrusha scheme is operated and depends upon it?

Group H — Mitigation, monitoring and compliance**Issue Sheet 44: Adaptive management triggers**

Issue: Adaptive management triggers

Applicant position: The Applicant says abstraction will be adaptive and can be curtailed.

Adequacy assessment: Insufficient without objective triggers.

Why this is material: Adaptive management cannot replace certainty unless thresholds are defined and enforceable.

Further submission: The Applicant should provide mandatory hydrological and ecological curtailment triggers.

Oral hearing question: At what exact water level, flow, forecast or ecological condition must abstraction be reduced?

Issue Sheet 45: Drought curtailment

Issue: Drought curtailment

Applicant position: The Applicant says curtailment may depend on starting level, expected drought duration and drinking water demand.

Adequacy assessment: Too discretionary unless fixed in conditions/licence.

Why this is material: Public water demand could conflict with ecological protection during drought.

Further submission: The hierarchy of decision-making and mandatory curtailment rules should be identified.

Oral hearing question: Who decides curtailment and what happens if water demand is high?

Issue Sheet 46: Draft Water Abstraction Document

Issue: Draft Water Abstraction Document

Applicant position: The Applicant refers to the Draft Water Abstraction Document.

Adequacy assessment: Relevant but not a substitute for enforceable licence conditions.

Why this is material: Draft operational documents may change in the EPA process.

Further submission: The Commission should require the final licence conditions or binding commitments before reliance.

Oral hearing question: Which draft provisions are legally binding at planning consent stage?

Issue Sheet 47: CEMP and REAC reliance

Issue: CEMP and REAC reliance

Applicant position: The Applicant relies on CEMP, REAC and contractor implementation.

Adequacy assessment: Implementation tools, not assessment substitutes.

Why this is material: Measures must be sufficiently precise before consent if relied upon for legal compliance.

Further submission: Separate mitigation necessary for consent from implementation detail.

Oral hearing question: Which mitigation measures are essential to the no-deterioration and no-adverse-effect conclusions?

Issue Sheet 48: Compliance Framework

Issue: Compliance Framework

Applicant position: The Applicant proposes local-authority-area Compliance Frameworks with later updates.

Adequacy assessment: Practical but potentially excessive deferral.

Why this is material: Material mitigation and enforceability cannot be deferred after consent.

Further submission: The Commission should limit any framework to implementation matters, not assessment-critical mitigation.

Oral hearing question: What matters will be left to later local authority agreement?

Issue Sheet 49: Pre-construction surveys

Issue: Pre-construction surveys

Applicant position: The Applicant relies on repeat and pre-construction surveys for some receptors.

Adequacy assessment: Acceptable only if not used to fill assessment gaps.

Why this is material: Pre-construction surveys cannot be used to decide after consent whether adverse effects exist.

Further submission: Clarify whether such surveys are precautionary implementation or necessary to complete AA/EIA.

Oral hearing question: Are any no-adverse-effect conclusions dependent on future surveys?

Group I — Habitats Directive, ecology and governing authorities

Issue Sheet 50: Golden Plover ex-situ habitat

Issue: Golden Plover ex-situ habitat

Applicant position: The Supplementary Response says no regular established ex-situ habitat was found.

Adequacy assessment: Possible answer but requires scrutiny.

Why this is material: SDCC identified potential ex-situ use and requested detailed surveying.

Further submission: The Commission should ensure survey currency and functional connectivity reasoning are adequate.

Oral hearing question: What survey evidence rules out functional connectivity with SPA populations?

Issue Sheet 51: Survey age and baseline currency

Issue: Survey age and baseline currency

Applicant position: SDCC raised concerns that surveys were older than 18 months or over five years old.

Adequacy assessment: Cross-referenced response may not be enough.

Why this is material: Ecological baseline can change, especially along a long linear corridor.

Further submission: The Commission should require a survey currency schedule and update commitments.

Oral hearing question: Which ecological surveys are older than best-practice currency and why are they still valid?

Issue Sheet 52: Groundwater dependent terrestrial ecosystems

Issue: Groundwater dependent terrestrial ecosystems

Applicant position: Environmental Trust Ireland raised surface water and groundwater interactions.

Adequacy assessment: Response appears largely by cross-reference.

Why this is material: GWDTEs may be sensitive to hydrological changes and cumulative effects.

Further submission: The Applicant should provide a clear pathway assessment for each relevant GWDTE.

Oral hearing question: Which GWDTEs were screened in or out and on what basis?

Issue Sheet 53: Habitats Directive certainty

Issue: Habitats Directive certainty

Applicant position: The Applicant says the NIS supports a no adverse effect conclusion.

Adequacy assessment: Conclusion is not enough.

Why this is material: The Commission must make complete, precise and definitive findings.

Further submission: The Commission should identify its own findings and reasoning, not merely adopt the NIS.

Oral hearing question: What findings remove reasonable scientific doubt for each European site?

Issue Sheet 54: Holohan scope

Issue: Holohan scope

Matter arising: Holohan requires assessment of all aspects affecting conservation objectives, including relevant supporting habitat.

Adequacy assessment: Not expressly applied in the Response.

Why this is material: Ex-situ and supporting habitats may matter even outside the site boundary.

Further submission: The Commission should ensure supporting habitats and species outside designated sites are assessed where functionally linked.

Oral hearing question: How were supporting habitats outside European sites assessed?

Issue Sheet 55: People Over Wind

Issue: People Over Wind

Matter arising: Mitigation cannot be used to avoid screening into Appropriate Assessment.

Adequacy assessment: Need clarity on screening versus NIS mitigation.

Why this is material: The project includes multiple mitigation measures across water, biodiversity and construction.

Further submission: The Commission should ensure screening conclusions did not rely on mitigation.

Oral hearing question: At screening stage, what effects were excluded without mitigation?

Issue Sheet 56: Grace and compensation

Issue: Grace and compensation

Matter arising: Compensatory or offset measures cannot be treated as mitigation under Article 6(3).

Adequacy assessment: Need clarity where habitat creation or biodiversity measures are relied upon.

Why this is material: Creation or offset measures may not remove site integrity effects unless genuinely avoidance/reduction measures.

Further submission: Identify which measures are mitigation and which are compensation/enhancement.

Oral hearing question: Are any habitat creation measures relied upon to avoid adverse effects on European sites?

Issue Sheet 57: Kelly and complete findings

Issue: Kelly and complete findings

Matter arising: Irish courts require complete, precise and definitive findings in AA context.

Adequacy assessment: The Response does not itself provide such findings.

Why this is material: The Commission must be able to record its own lawful AA.

Further submission: The decision should not merely cite a large body of documents without clear findings.

Oral hearing question: Can the Applicant identify, for each European site, the complete, precise and definitive findings on which a no-adverse-effect conclusion could rest?

Issue Sheet 58: Connelly and reasons

Issue: Connelly and reasons

Matter arising: Adequate reasons are required so parties understand why the decision is made.

Adequacy assessment: Risk remains if reasoning is buried in cross-references.

Why this is material: A decision on this record must show the chain of reasoning.

Further submission: The Commission should require or prepare a clear reasons matrix.

Oral hearing question: Which of the Applicant's WFD and Appropriate Assessment conclusions rest on contested or finely balanced expert judgement rather than on unambiguous data?

Issue Sheet 59: Balz and expert disagreement

Issue: Balz and expert disagreement

Matter arising: Where material expert or technical issues arise, reasons must engage with them.

Adequacy assessment: The Applicant's response often denies without detailed engagement.

Why this is material: The Commission must grapple with material contrary submissions.

Further submission: The decision should expressly address the unresolved technical questions.

Oral hearing question: How will each material WFD concern be resolved in the reasons?

Issue Sheet 60: Public participation and Aarhus

Issue: Public participation and Aarhus

Applicant position: The Applicant says public participation requirements were met.

Adequacy assessment: May be procedurally correct but does not answer technical accessibility.

Why this is material: The public must be able to engage meaningfully with environmental information.

Further submission: A technical further information process and oral hearing would assist meaningful participation.

Oral hearing question: How can the public test WFD conclusions without BQE tables and uncertainty data?

Group J — Recent developments and matters arising

Issue Sheet 61: Corrected response date

Issue: Corrected response date

Matter arising: The Commission corrected the deadline from 21 August to 21 July.

Adequacy assessment: Not a substantive defect but relevant context.

Why this is material: The corrected period is short relative to the volume and complexity of the material.

Further submission: The Commission should consider oral hearing or further information to ensure fairness.

Oral hearing question: Will parties have further opportunity if new information is provided?

Issue Sheet 62: Decision date extension

Issue: Decision date extension

Matter arising: The ACP case page now records decision due by 2 July 2027.

Adequacy assessment: Relevant context.

Why this is material: Extended determination time confirms complexity and supports further examination.

Further submission: The Commission should use the additional time to require detailed clarification.

Oral hearing question: What further technical review will be undertaken before decision?

Issue Sheet 63: C-204/24 Commission v Ireland

Issue: C-204/24 Commission v Ireland

Matter arising: The CJEU found failures in Ireland's WFD transposition.

Adequacy assessment: New legal context requiring caution.

Why this is material: Domestic regulatory assumptions should not be treated as automatically sufficient.

Further submission: The Commission should apply the WFD and CJEU case law directly and cautiously.

Oral hearing question: In light of C-204/24, on what basis does the Applicant treat the future EPA abstraction licence as sufficient to secure Article 4 compliance, given the Court's finding that Ireland's abstraction controls were inadequately transposed?

Issue Sheet 64: EPA abstraction guidance 2026

Issue: EPA abstraction guidance 2026

Matter arising: EPA guidance confirms licensing thresholds and prior authorisation for major abstractions.

Adequacy assessment: Strengthens split-consent concern.

Why this is material: The abstraction licence is central, not peripheral.

Further submission: The planning assessment should not rely on operational controls that are not yet fixed.

Oral hearing question: What EPA licence conditions are assumed in the EIAR/NIS/WSIAR?

Issue Sheet 65: Water Action Plan 2024

Issue: Water Action Plan 2024

Matter arising: The plan emphasises protection and restoration of water quality.

Adequacy assessment: Supports recovery trajectory argument.

Why this is material: No-deterioration and restoration are both relevant.

Further submission: The Applicant should show no narrowing of ecological headroom or delay to restoration.

Oral hearing question: How is the project consistent with current Water Action Plan measures?

Issue Sheet 66: 2026 low-water advisory

Issue: 2026 low-water advisory

Matter arising: Waterways Ireland warned of Shannon low water levels due to low rainfall.

Adequacy assessment: Not proof of impact, but relevant stress-test data.

Why this is material: Recent real-world low-water conditions should be used to test modelling conservatism.

Further submission: The Applicant should run observed 2026 low-water conditions through the model if not already done.

Oral hearing question: How would the project operate under the 2026 low-water conditions?

Issue Sheet 67: Oireachtas concern about procurement before planning

Issue: Oireachtas concern about procurement before planning

Matter arising: Parliamentary questions have been asked about procurement proceeding before planning permission.

Adequacy assessment: Relevant to public confidence and process integrity.

Why this is material: Procurement momentum must not prejudice the independent statutory decision.

Further submission: The Commission should state that procurement progress is irrelevant to environmental compliance.

Oral hearing question: Has any procurement decision assumed planning approval?

Group K — Need, demand, phasing and process

Issue Sheet 68: Water supply need and population growth

Issue: Water supply need and population growth

Applicant position: The Applicant relies on strategic need and capacity for up to 50% of the population.

Adequacy assessment: Need may be relevant but not determinative.

Why this is material: Strategic need cannot cure failure under WFD or Habitats Directive.

Further submission: Keep need separate from mandatory environmental tests.

Oral hearing question: Which parts of the planning balance are discretionary and which are mandatory?

Issue Sheet 69: Data centres and demand

Issue: Data centres and demand

Applicant position: Submissions raised data-centre demand; Applicant says demand forecasting considered commercial and industrial demand.

Adequacy assessment: Partly answered but demand assumptions remain material.

Why this is material: If non-domestic demand drives the deficit, alternatives and demand management are more important.

Further submission: The Applicant should disclose sensitivity to high and low industrial/data-centre demand assumptions.

Oral hearing question: How much projected demand relates to data centres or high-consumption industry?

Issue Sheet 70: Energy and carbon

Issue: Energy and carbon

Applicant position: Desalination was rejected partly on energy grounds; project also has energy needs.

Adequacy assessment: Needs transparent comparison.

Why this is material: Carbon and energy impacts are relevant to alternatives and climate assessment.

Further submission: Provide an equivalent carbon comparison across options including leakage, demand management and desalination.

Oral hearing question: What is the lifetime energy and carbon comparison with alternatives?

Issue Sheet 71: Phased abstraction

Issue: Phased abstraction

Applicant position: The project is designed for 300 Ml/d peak abstraction.

Adequacy assessment: Potential alternative not fully tested in the Response.

Why this is material: Phasing could reduce ecological risk and allow adaptive evidence gathering.

Further submission: Assess consent with staged abstraction caps subject to independent ecological review.

Oral hearing question: Could the project proceed only at lower initial abstraction pending monitoring?

Issue Sheet 72: Monitoring as cure

Issue: Monitoring as cure

Applicant position: The Applicant refers to monitoring and future management.

Adequacy assessment: Monitoring alone does not prevent deterioration unless linked to triggers and action.

Why this is material: Post-consent monitoring cannot cure uncertainty at the decision stage.

Further submission: Monitoring must be tied to enforceable thresholds and suspension/curtailment rules.

Oral hearing question: What action is mandatory if monitoring diverges from predictions?

Issue Sheet 73: Navigation and recreation

Issue: Navigation and recreation

Applicant position: The Applicant says water levels will remain within normal operating bands.

Adequacy assessment: May answer visible water-level concern but not all ecological issues.

Why this is material: Navigation levels are not the same as ecological quality.

Further submission: Do not conflate amenity usability with WFD compliance.

Oral hearing question: What ecological thresholds are used, separate from navigation levels?

Issue Sheet 74: Local authority conditions

Issue: Local authority conditions

Applicant position: The Applicant accepts the spirit of local authority conditions.

Adequacy assessment: Good but not enough if details are deferred.

Why this is material: Planning conditions must be precise and enforceable.

Further submission: The Commission should ensure conditions do not leave material matters for later agreement.

Oral hearing question: Which proposed conditions are essential environmental mitigation?

Issue Sheet 75: Material contravention and national policy

Issue: Material contravention and national policy

Applicant position: The Applicant relies on strategic national importance and development policy.

Adequacy assessment: Cannot override EU environmental law.

Why this is material: National importance is relevant only after mandatory tests are satisfied.

Further submission: The Commission should keep mandatory tests separate from planning balance.

Oral hearing question: Is any environmental non-compliance being justified by national need?

Issue Sheet 76: CPO parallel process

Issue: CPO parallel process

Applicant position: A separate CPO application is running in parallel.

Adequacy assessment: Relevant to overall project momentum and landowner impacts.

Why this is material: CPO and SID decisions may interact, but environmental legality remains primary.

Further submission: The Commission should avoid allowing CPO momentum to affect environmental decision-making.

Oral hearing question: How will CPO impacts and construction sequencing be coordinated with environmental controls?

Issue Sheet 77: Site notices and counties

Issue: Site notices and counties

Applicant position: The Supplementary Response says no Kerry notices were needed and Limerick/Clare were addressed.

Adequacy assessment: Probably not a primary point for this submission.

Why this is material: However, notice adequacy is relevant to public participation for downstream interests.

Further submission: The Commission should be satisfied that downstream communities had meaningful notice.

Oral hearing question: Were affected downstream users in Clare and Limerick adequately notified and able to engage?

Issue Sheet 78: Oral hearing necessity

Issue: Oral hearing necessity

Applicant position: The Commission has discretion to hold an oral hearing.

Adequacy assessment: A strong case exists for one.

Why this is material: The technical and legal complexity cannot be resolved transparently by paper cross-references alone.

Further submission: The Commission should hold an oral hearing focused on WFD, AA, abstraction licensing and hydrology.

Oral hearing question: Is the Applicant willing to make its hydrology, ecology and licensing experts available for examination at an oral hearing?

Issue Sheet 79: EPA and ACP coordination

Issue: EPA and ACP coordination

Applicant position: The Applicant says ACP will want to liaise with the EPA regarding the interface between planning and abstraction licensing.

Adequacy assessment: A statement of expected liaison is not a defined process.

Why this is material: The outcome of EPA licensing could alter operational assumptions used by the Commission.

Further submission: The Commission should obtain a formal coordination note from EPA and the Applicant before determination.

Oral hearing question: What is the formal mechanism for ACP/EPA coordination and how will conflicts be resolved?

Group L — Operational, ecological and construction matters

Issue Sheet 80: Priority during drought

Issue: Priority during drought

Applicant position: The Applicant states abstraction may be curtailed in an extreme scenario but also refers to drinking water demand.

Adequacy assessment: Unclear.

Why this is material: Drought is the time when ecological risk and public supply demand may both be highest.

Further submission: The Applicant should identify the hierarchy between drinking water demand, compensation flow, ecological protection, dam safety and hydropower.

Oral hearing question: During drought, which use is curtailed first and under what legal authority?

Issue Sheet 81: Fish pass flows

Issue: Fish pass flows

Applicant position: The Applicant refers to statutory compensation flow and fish pass flows being maintained.

Adequacy assessment: Partly answered.

Why this is material: Fish pass performance can depend on timing, attraction flow, temperature and biological cues, not just nominal minimum flow.

Further submission: The Applicant should provide biological assessment of fish passage under low-flow and abstraction scenarios.

Oral hearing question: How is fish migration protected under peak abstraction and low-flow periods?

Issue Sheet 82: Atlantic salmon conservation objective

Issue: Atlantic salmon conservation objective

Applicant position: The Applicant states no effect is predicted on Atlantic salmon qualifying interests.

Adequacy assessment: Conclusion requires detailed ecological support.

Why this is material: Atlantic salmon are a qualifying interest of the Lower River Shannon SAC and are sensitive to flow, temperature and passage.

Further submission: The Commission should require a receptor-specific salmon pathway assessment tied to conservation objectives.

Oral hearing question: Where is the salmon-specific assessment of flow timing, passage and habitat effects?

Issue Sheet 83: Invasive species risk under altered flow

Issue: Invasive species risk under altered flow

Applicant position: Environmental Trust Ireland raised invasive species advantage under altered flow; the Applicant largely cross-referenced earlier biodiversity responses.

Adequacy assessment: Not fully answered.

Why this is material: Altered hydrology and temperature can influence invasive species dynamics.

Further submission: The Applicant should identify whether hydrological change could favour invasive species in littoral or downstream habitats.

Oral hearing question: Has invasive species risk been modelled or assessed under altered low-flow conditions?

Issue Sheet 84: Peatland drainage legacy

Issue: Peatland drainage legacy

Matter arising: The original submission identified peatland legacy drainage as reducing catchment buffering capacity.

Adequacy assessment: Not clearly answered in the Response.

Why this is material: Catchment storage and baseflow resilience matter in drought and climate stress.

Further submission: The Applicant should explain how peatland drainage legacy effects are represented in hydrological baseline and future sensitivity.

Oral hearing question: How were peatland drainage and reduced catchment buffering included in the model?

Issue Sheet 85: Groundwater interaction along pipeline

Issue: Groundwater interaction along pipeline

Applicant position: Construction and pipeline works may interact with watercourses, drains, groundwater and wells.

Adequacy assessment: Mostly treated through construction mitigation.

Why this is material: For WFD purposes construction effects can still create deterioration or pollution risk if not tightly controlled.

Further submission: The Applicant should provide a route-wide groundwater and watercourse interaction risk table.

Oral hearing question: Which crossings or groundwater receptors present the highest residual WFD risk?

Issue Sheet 86: Washout discharge and commissioning water

Issue: Washout discharge and commissioning water

Applicant position: The EIAR identifies washouts, commissioning flows and possible discharges to land or water bodies.

Adequacy assessment: Mitigation is proposed but operational thresholds require clarity.

Why this is material: Discharges from hydrostatic testing or cleaning can affect local water quality and hydromorphology.

Further submission: The Applicant should identify discharge locations, receiving water status, treatment standards and monitoring triggers.

Oral hearing question: Which washouts discharge to water and what WFD status protections apply at each location?

Issue Sheet 87: Construction effects across 500 watercourse crossings

Issue: Construction effects across 500 watercourse crossings

Applicant position: The NTS identifies over 500 watercourse crossings including drainage ditches.

Adequacy assessment: The scale itself requires a cumulative construction-water assessment.

Why this is material: Small crossings may have cumulative sediment, hydromorphology and habitat effects.

Further submission: The Applicant should provide a cumulative construction crossing risk schedule by catchment.

Oral hearing question: What is the cumulative construction effect of all watercourse crossings in each catchment?

Issue Sheet 88: Local authority fragmentation

Issue: Local authority fragmentation

Applicant position: The Applicant proposes local authority area-based compliance and pre-commencement submissions.

Adequacy assessment: Practical but fragmented.

Why this is material: Fragmented oversight may make basin-wide WFD and ecological conditions harder to enforce.

Further submission: The Commission should require a single overarching environmental compliance authority or reporting framework.

Oral hearing question: Who has responsibility for cross-county cumulative compliance?

Issue Sheet 89: Public reporting of abstraction

Issue: Public reporting of abstraction

Matter arising: The Response does not clearly commit to public real-time or periodic reporting of abstraction and levels.

Adequacy assessment: Unanswered.

Why this is material: Public confidence requires transparency where a major public water supply depends on a protected river system.

Further submission: The Commission should require public reporting of abstraction rates, water levels, curtailments and ecological monitoring.

Oral hearing question: Will abstraction, curtailment and monitoring data be published in real time or at regular intervals?

Issue Sheet 90: Independent review of modelling

Issue: Independent review of modelling

Applicant position: The Applicant relies on its own modelling and expert team.

Adequacy assessment: Not necessarily deficient but independent review would assist.

Why this is material: The scale and public controversy justify independent hydrological and ecological peer review.

Further submission: The Commission should obtain independent expert review of WFD, hydrology and AA matters.

Oral hearing question: Will the Applicant make its underlying models and data available for independent verification?

Issue Sheet 91: Post-consent changes

Issue: Post-consent changes

Applicant position: The Applicant's compliance framework anticipates updates to documents and minor changes.

Adequacy assessment: Potentially problematic if changes affect assessed effects.

Why this is material: Post-consent flexibility must not exceed the assessed envelope.

Further submission: Conditions should require any material change affecting WFD or AA assumptions to return to the Commission or EPA as appropriate.

Oral hearing question: What mechanism ensures post-consent updates remain within the assessed environmental envelope?

Issue Sheet 92: Cumulative demand from future communities

Issue: Cumulative demand from future communities

Applicant position: The project provides capacity for future offtakes and wider regional redistribution.

Adequacy assessment: Future projects are said to be separately consented.

Why this is material: The environmental basis of the main abstraction may be affected by foreseeable future demand and operation.

Further submission: The Applicant should identify the demand assumptions embedded in the 300 Ml/d abstraction and future offtake scenario.

Oral hearing question: What future regional supplies are included in the demand model underlying 300 Ml/d?

Issue Sheet 93: Precaution where national implementation is deficient

Issue: Precaution where national implementation is deficient

Matter arising: C-204/24 confirms Ireland has had WFD transposition failures.

Adequacy assessment: Requires particular care, not panic.

Why this is material: Where domestic implementation is under judicial criticism, the competent authority should apply the Directive and CJEU case law directly.

Further submission: The Commission should expressly set out its WFD legal test, not rely solely on domestic process.

Oral hearing question: Given C-204/24, does the Applicant accept that the Commission must apply Article 4 and Annex V of the WFD directly, rather than relying on domestic transposition?

Group M — Further legal matters

Issue Sheet 94: Article 7 WFD – Drinking Water Protected Area

Issue: Whether the specific Article 7 WFD obligations for the drinking-water abstraction have been assessed.

Applicant position: The WSIAR addresses Article 4 non-deterioration; Article 7 is not separately identified.

Adequacy assessment: To be confirmed. Article 7 is a distinct obligation and, to the extent it applies, is not subsumed in the Article 4 assessment.

Why this is material: For Drinking Water Protected Areas, Article 7(2)–(3) requires protection to avoid deterioration so as to reduce the level of purification treatment required, in addition to Article 4 objectives.

Further submission: The Commission should require identification of where the Article 7 obligations for Parteen / Lough Derg have been assessed.

Oral hearing question: Where are the Article 7 WFD obligations for the abstraction point specifically assessed?

Issue Sheet 95: EIA reasoned conclusion – currency at decision date

Issue: Whether the reasoned conclusion remains current given observed conditions post-dating the modelling.

Matter arising: Low-water conditions were observed on the Shannon Navigation in May 2026 (Marine Notice No. 56 of 2026); the decision is not due until 2027.

Adequacy assessment: Requires confirmation. A reasoned conclusion must be up to date at the decision date.

Why this is material: The Commission cannot rely on modelling that observed conditions may have overtaken without confirming, on current evidence, that the conclusions remain valid.

Further submission: The Commission should require the observed 2026 low-water conditions to be run through the model or otherwise addressed as a sensitivity check.

Oral hearing question: Is the reasoned conclusion current as at the decision date, given observed conditions since the modelling?

Issue Sheet 96: Standing, directly-concerned status and preservation of grounds

Issue: The submitter's entitlement to raise these matters and to have them determined.

Matter arising: The submitter resides near the intake at Garrynatineel, Ballina, and is a legitimate user of the affected waters.

Adequacy assessment: Establishes standing and directly-concerned status.

Why this is material: A person directly concerned by a decision liable to breach Article 4 WFD, by reason of legitimate use of the water body, may rely on that provision and is entitled to effective review (C-535/18; C-664/15).

Further submission: The Commission should treat the matters raised as duly and specifically pleaded and address them on the record.

Oral hearing question: Does the Applicant accept that the submitter, as a directly-concerned legitimate user, is entitled to have these Article 4 matters determined?

Schedule B: Consolidated Further Information Request

I respectfully request that the Commission require the Applicant to provide the following information before any decision to grant permission is made.

B1. Water Framework Directive

- For the Parteen Basin / Lough Derg abstraction as a Drinking Water Protected Area, identification of where the specific Article 7 WFD obligations (avoiding deterioration so as to reduce the level of purification treatment required) have been assessed.
- A complete schedule of each affected surface water body and groundwater body, including current ecological, chemical and hydromorphological status.
- For each surface water body, the current classification of each biological quality element and supporting quality element.
- For each element, the relevant class boundary, current measured value, predicted post-abstraction value and numerical margin to deterioration.
- Predicted values under the Applicant's own modelling scenarios — the 154 Ml/d normal/typical operating scenario and the 300 Ml/d peak scenario, each with and without climate-change effects (EIAR Chapter 9, Scenarios 2–5) — together with peak-drought and sequential multi-year drought scenarios. The 154 Ml/d figure is the Applicant's stated normal/typical output (SID Engineering Report, paragraph 8); 300 Ml/d is the peak.
- Uncertainty bands, confidence intervals or sensitivity ranges for key hydrological and biological outputs.
- A formal Article 4(7) screening statement explaining whether a derogation assessment is required if any uncertainty remains.

B2. Hydrology and climate stress

- Sequential two-year and three-year drought modelling, including projected 2050 demand and climate stress.

- An assessment of low-flow duration and downstream riverine ecological effects, even if Q95 is said not to apply to the lake abstraction point.
- Observed 2026 low-water conditions to be run through the model or otherwise addressed as a sensitivity check.
- A clear account of how ESB operation, hydropower generation, compensation flow, fish pass flow, navigation requirements and dam safety are integrated.

B3. Abstraction licence interface

- A statement of the Applicant's position on the scope of the 'whole project' for EIA and Appropriate Assessment purposes, and of how the effects of the abstraction operation and its interaction with the ESB scheme are assessed within this application rather than deferred.
- A statement of the current status of the ESB associated impoundment licence application.
- A statement of the current status and proposed timing of Uisce Éireann's abstraction licence application.
- A table identifying all operational assumptions in the EIAR, NIS and WSIAR that depend on future EPA licence conditions.
- Clarification of how ACP and EPA will coordinate to avoid inconsistent assumptions or conditions.
- A draft set of abstraction curtailment triggers to be secured in either planning conditions or the EPA licence.

B4. Appropriate Assessment

- A site-by-site schedule of European sites screened in or out, with the source-pathway-receptor reasoning and conservation objectives.
- For each European site screened in, complete, precise and definitive findings addressing each relevant qualifying interest and conservation objective.
- Clarification that no AA screening conclusion relied on mitigation contrary to People Over Wind.
- A schedule distinguishing mitigation from compensation/enhancement measures.
- Updated or justified baseline survey currency for relevant habitats and species, including ex-situ Golden Plover issues raised by South Dublin County Council.

B5. Alternatives and project-level options

- A project-level comparison of alternative supply strategies (accelerated leakage reduction, demand management, phased abstraction, desalination, diversified supply) to equivalent evidential depth, and a statement of where any such project-level comparison — as distinct from plan-level consideration under the NWRP — has been carried out.
- A project-level comparison of alternative or reduced-risk options, including accelerated leakage reduction, demand management, phased abstraction, desalination and diversified supply.
- For each alternative, a comparison of cost, carbon, environmental risk, WFD risk, deliverability and climate resilience.
- A statement explaining what alternatives would be reconsidered if Article 4(7) were found to be engaged.

B6. Mitigation and conditions

- A schedule identifying each mitigation measure relied upon for WFD, AA and EIA conclusions.
- For each measure, the legal mechanism securing it, trigger, responsible party, monitoring requirement and enforcement route.

- A limitation on any Compliance Framework so that it cannot defer assessment-critical mitigation or substitute later agreement for present certainty.
- A draft condition set dealing with abstraction curtailment, ecological triggers, reporting and public transparency.

Schedule C: Oral Hearing Questions

The following questions should, in my respectful submission, be put to the Applicant if an oral hearing is held.

Priority Oral Hearing Questions

1. For each affected water body, where is the table of current BQE status, class-boundary distance, and predicted post-abstraction margin under the 300 MI/d peak and climate-adjusted peak scenario (EIAR Chapter 9, Scenario 5)?
2. What Irish, biological, water-body-specific evidence — not UKTAG lake levels — proves no quality element deteriorates?
3. The Applicant accepts UKTAG is not calibrated to Irish biological class boundaries; what performs that determinative biological work instead?
4. What is the numerical margin to deterioration for each BQE under 300 MI/d and under climate-adjusted drought?
5. If upper-bound model uncertainty is applied, does any quality element reach a deterioration threshold?
6. Has biological response been directly modelled, or inferred from hydrological and physico-chemical stability?
7. Given drought results are presented for context and sensitivity testing rather than as formal compliance tests (Response, paragraph 2888; Appendix A9.1, paragraph 40), what excludes temporary deterioration during drought low-flow?
8. Were sequential multi-year droughts modelled, or only single severe years (1995 and 2018)?
9. How are downstream riverine low-flow duration and exceedance effects assessed, given Q95 is said to have limited application at the lake abstraction point?
10. On the Applicant's own case (Response, paragraph 104) ACP cannot determine or condition the abstraction; how then can the Commission be satisfied on Article 4?
11. What happens if the EPA abstraction licence ultimately sets volumes, curtailment or conditions different from those assumed in the EIAR, NIS and WSIAR?
12. What are the mandatory, objective curtailment triggers — hydrological and ecological — and where are they secured and enforceable?
13. Can future environmental-flow restoration under the RBMP be delivered without curtailing the project, and where is that shown?
14. Has any Article 4(7) screening or derogation assessment been undertaken; if not, on what basis is it excluded?
15. Where is the Article 4(1)(c) / Article 6(3) consistency analysis for water-dependent European sites?
16. Which specific mitigation measures are essential to the no-deterioration and no-adverse-effect conclusions, and how is each secured?
17. Does the no-adverse-effect conclusion for the Lower River Shannon SAC depend on controls to be fixed later by the EPA licence (Waddenzee; Białowieża, C-441/17)?

18. Why is the ESB impoundment / abstraction operation treated as outside the whole project for EIA purposes, given the project changes the operation of the Ardnacrusha scheme (Abraham, C-2/07; O’Grianna)?
19. What is the current status of the ESB impoundment licence application and of the Applicant’s own abstraction licence application?
20. As a Drinking Water Protected Area, how are the Article 7 WFD obligations for Parteen / Lough Derg specifically assessed?
21. Has the modelling been tested against the observed low-water conditions of 2026 (Marine Notice No. 56 of 2026, 25 May 2026)?
22. Is the EIA reasoned conclusion current as at the decision date, given observed conditions post-dating the modelling?
23. How were in-combination effects with the Greater Dublin Drainage project and the ESB abstraction / impoundment licence assessed under Article 4(8) and Article 6(3)?
24. At the 24 June 2026 Infrastructure Committee, sufficiency was framed around ESB / Ardnacrusha operating levels; what demonstrates biological (not operational) status is protected?
25. Which alternatives (accelerated leakage reduction, demand management, phased abstraction, desalination, diversified supply) were assessed at project level to the same evidential depth as the proposed abstraction, and where?
26. On what basis is the National Water Resources Plan treated as discharging the project-level alternatives obligation, given that the EIA Directive requires alternatives relevant to the project’s specific characteristics (Article 5(1)(d); Inter-Environnement Bruxelles, C-671/16)?

Supplemental Oral Hearing Questions

27. Provide a cross-reference schedule answering each question in Appendix B of my original submission.
28. How did the Applicant verify that WSP_SUB_17’s BQE and class-boundary questions were individually answered?
29. Where is the evidential chain from model output to WFD status conclusion set out?
30. Can the Applicant provide exact paragraph/table references for each BQE margin and uncertainty band?
31. What objective evidence excludes deterioration for each affected water body?
32. For each quality element, what is the predicted status before and after the abstraction?
33. Does the Applicant accept that Weser governs deterioration at quality element level?
34. Where is the public-facing matrix of WFD deterioration risk by quality element?
35. Where is the BQE schedule for the Shannon system?
36. What is the numerical margin between current condition and the relevant class boundary?
37. What margin remains under 300 MI/d and climate-adjusted drought?
38. If upper-bound uncertainty is applied, does any element approach a deterioration threshold?
39. What happens under combined upper-bound hydrological and demand assumptions?
40. Has biological response been directly modelled or inferred from hydrological stability?
41. What Irish biological standard, not UKTAG, proves no deterioration?
42. Is UKTAG merely supportive, and if so where is the decisive biological analysis?
43. How were downstream low-flow exceedance and duration effects assessed?
44. Were sequential droughts tested, and what were the outputs?
45. Why is the selected drought scenario sufficient for future climate conditions?
46. What climate scenario, emissions pathway and hydrological translation were used?
47. How are orthophosphate, nitrogen, temperature and algal risk affected under low-flow conditions?
48. What are the worst-case DO and temperature outputs under peak abstraction?

49. Was altered salinity regime in the estuary modelled?
50. Does the abstraction reduce headroom to increase compensation flow in future?
51. Can future environmental flows be increased without curtailing the project?
52. Does the project delay attainment of good status in any water body?
53. Which connected water bodies were assessed under Article 4(8)?
54. Where is the WFD-to-Natura consistency matrix?
55. Has any internal Article 4(7) screening been undertaken?
56. Were alternatives modelled to the same temporal and ecological resolution as the abstraction?
57. What project-level alternatives analysis remains after the NWRP selection?
58. What reduction in peak abstraction could accelerated leakage reduction achieve?
59. How would aggressive demand management affect the 2050 peak deficit?
60. Was desalination assessed to the same detail as the Shannon abstraction for Article 4(7) purposes?
61. Was ecological concentration risk compared across supply portfolios?
62. Which future offtakes are reasonably foreseeable and how were they assessed?
63. Can the Applicant confirm no procurement commitment prejudices the planning decision?
64. What independent sensitivity analysis supports the claimed benefit-cost ratio?
65. What expenditure has been incurred, and is any of it being relied upon in the planning balance?
66. Is any community benefit being relied upon to justify environmental risk?
67. How can ACP consent the project while unable to condition the abstraction?
68. Has the EPA indicated how it will coordinate with ACP on this application?
69. What happens if the ESB licence conditions differ from the planning assumptions?
70. What enforceable agreement governs ESB operation with the abstraction?
71. Does diversion from hydropower to potable supply change timing, priority or curtailment?
72. How has the existing impoundment been treated in cumulative and indirect effects assessment?
73. What components are indispensable to the environmental operation of the project?
74. At what exact water level, flow, forecast or ecological condition must abstraction be reduced?
75. Who decides curtailment and what happens if water demand is high?
76. Which draft provisions are legally binding at planning consent stage?
77. Which mitigation measures are essential to the no-deterioration and no-adverse-effect conclusions?
78. What matters will be left to later local authority agreement?
79. Are any no-adverse-effect conclusions dependent on future surveys?
80. What survey evidence rules out functional connectivity with SPA populations?
81. Which ecological surveys are older than best-practice currency and why are they still valid?
82. Which GWDTEs were screened in or out and on what basis?
83. What findings remove reasonable scientific doubt for each European site?
84. How were supporting habitats outside European sites assessed?
85. At screening stage, what effects were excluded without mitigation?
86. Are any habitat creation measures relied upon to avoid adverse effects on European sites?
87. Can the Applicant identify, for each European site, the complete, precise and definitive findings on which a no-adverse-effect conclusion could rest?
88. Which of the Applicant's WFD and Appropriate Assessment conclusions rest on contested or finely balanced expert judgement rather than on unambiguous data?
89. How will each material WFD concern be resolved in the reasons?
90. How can the public test WFD conclusions without BQE tables and uncertainty data?
91. Will parties have further opportunity if new information is provided?
92. What further technical review will be undertaken before decision?

93. In light of C-204/24, on what basis is the future EPA abstraction licence treated as sufficient to secure Article 4 compliance, given the Court's finding that Ireland's abstraction controls were inadequately transposed?
94. What EPA licence conditions are assumed in the EIAR/NIS/WSIAR?
95. How is the project consistent with current Water Action Plan measures?
96. How would the project operate under the 2026 low-water conditions?
97. Has any procurement decision assumed planning approval?
98. Which parts of the planning balance are discretionary and which are mandatory?
99. How much projected demand relates to data centres or high-consumption industry?
100. What is the lifetime energy and carbon comparison with alternatives?
101. Could the project proceed only at lower initial abstraction pending monitoring?
102. What action is mandatory if monitoring diverges from predictions?
103. What ecological thresholds are used, separate from navigation levels?
104. Which proposed conditions are essential environmental mitigation?
105. Is any environmental non-compliance being justified by national need?
106. How will CPO impacts and construction sequencing be coordinated with environmental controls?
107. Were affected downstream users in Clare and Limerick adequately notified and able to engage?
108. Is the Applicant willing to make its hydrology, ecology and licensing experts available for examination at an oral hearing?
109. What is the formal mechanism for ACP/EPA coordination and how will conflicts be resolved?
110. During drought, which use is curtailed first and under what legal authority?
111. How is fish migration protected under peak abstraction and low-flow periods?
112. Where is the salmon-specific assessment of flow timing, passage and habitat effects?
113. Has invasive species risk been modelled or assessed under altered low-flow conditions?
114. How were peatland drainage and reduced catchment buffering included in the model?
115. Which crossings or groundwater receptors present the highest residual WFD risk?
116. Which washouts discharge to water and what WFD status protections apply at each location?
117. What is the cumulative construction effect of all watercourse crossings in each catchment?
118. Who has responsibility for cross-county cumulative compliance?
119. Will abstraction, curtailment and monitoring data be published in real time or at regular intervals?
120. Will the Applicant make its underlying models and data available for independent verification?
121. What mechanism ensures post-consent updates remain within the assessed environmental envelope?
122. What future regional supplies are included in the demand model underlying 300 MI/d?
123. Given C-204/24, does the Applicant accept that the Commission must apply Article 4 and Annex V of the WFD directly, rather than relying on domestic transposition?

Schedule D: Authorities and Source Documents

D1. Applicant and application documents considered

- Uisce Éireann, Statutory Consultation: Response to Submissions Report, Version Final, May 2026.
- Uisce Éireann, Supplementary Response to Submissions Report, 2 June 2026.
- EIAR Chapter 1 – Introduction.
- EIAR Chapter 2 – The Environmental Impact Assessment Process.
- EIAR Chapter 3 – Consideration of Reasonable Alternatives.
- EIAR Chapter 4 – Proposed Project Description.

- EIAR Chapter 5 – Construction and Commissioning.
- EIAR Chapter 8 – Biodiversity.
- EIAR Chapter 9 – Water.
- Natura Impact Statement.
- Water Status Impact Assessment Report.
- Non-Technical Summary.
- Consultation Report.
- Draft Water Abstraction Document.
- Material Contravention Statement.
- Community Benefit Scheme.
- An Coimisiún Pleanála letters dated 24 June 2026 and 26 June 2026.

D2. EU legal authorities

- Directive 2000/60/EC establishing a framework for Community action in the field of water policy.
- Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.
- Directive 2011/92/EU as amended by Directive 2014/52/EU on environmental impact assessment.
- Treaty on the Functioning of the European Union, Article 191.
- Case C-461/13 Bund für Umwelt und Naturschutz Deutschland eV v Bundesrepublik Deutschland (Weser).
- Case C-535/18 Land Nordrhein-Westfalen.
- Case C-127/02 Waddenvereniging and Vogelbeschermingsvereniging (Waddenzee).
- Case C-258/11 Peter Sweetman and Others v An Bord Pleanála.
- Case C-323/17 People Over Wind and Peter Sweetman v Coillte Teoranta.
- Case C-461/17 Holohan and Others v An Bord Pleanála.
- Case C-164/17 Grace and Sweetman v An Bord Pleanála.
- Case C-142/16 Commission v Germany (Moorburg).
- Case C-204/24 Commission v Ireland.

D3. Irish authorities

- Planning and Development Act 2000, as amended.
- European Communities Environmental Objectives (Surface Waters) Regulations 2009 (S.I. No. 272 of 2009), as amended.
- European Communities Environmental Objectives (Groundwater) Regulations 2010 (S.I. No. 9 of 2010), as amended.
- Water Environment (Abstractions and Associated Impoundments) Act 2022.
- Kelly v An Bord Pleanála [2014] IEHC 400.
- O’Grianna v An Bord Pleanála [2014] IEHC 632.
- Connelly v An Bord Pleanála [2018] IESC 31.
- Balz and Heubach v An Bord Pleanála [2019] IESC 90.
- Heather Hill Management Company CLG v An Bord Pleanála [2022] IESC 43.

D4. Recent public materials

- An Coimisiún Pleanála case page for case 323980, recording a decision due date of 2 July 2027.

- Uisce Éireann public statement of 21 May 2026 stating that the Detailed Business Case had been approved by the Uisce Éireann Board and noted by Government, and that procurement and tendering would progress in parallel with planning.
- Uisce Éireann project information and FAQs stating a preliminary project cost estimate of €4.58 billion to €5.96 billion and a claimed benefit-cost ratio exceeding €10 for every €1 of project cost.
- EPA, Water Abstractions and Associated Impoundments – Registration and Licence Application Guidance Document, 2026.
- Waterways Ireland, Marine Notice No. 56 of 2026, “Shannon Navigation – Low Water Levels Advisory”, 25 May 2026.
- Government of Ireland, Water Action Plan 2024: River Basin Management Plan for Ireland 2022–2027.
- Houses of the Oireachtas, Joint Committee on Infrastructure, evidence of Uisce Éireann on the Water Supply Project (Eastern and Midlands Region), 24 June 2026.
- Departmental correspondence to the Public Accounts Committee referring to Ministerial Consent for Uisce Éireann to spend up to €68.02m at Preliminary Business Case stage.

Closing Statement

This submission is intended to assist the Commission by focusing on matters which remain unresolved after the Applicant’s responses. I do not suggest that every point raised by objectors has been ignored, nor do I suggest that every part of the Applicant’s assessment is deficient. The point is narrower and more important: on the issues identified above, the Applicant has not yet identified the evidence which would allow the Commission to close the legal inquiry.

D-add. Authorities relied on in this further submission

- Case C-461/13 Bund für Umwelt und Naturschutz Deutschland eV v Germany (Weser).
- Case C-535/18 IL and Others v Land Nordrhein-Westfalen.
- Case C-664/15 Protect Natur-, Arten- und Landschaftsschutz Umweltorganisation.
- Case C-721/21 Eco Advocacy CLG v An Bord Pleanála.
- Case C-127/02 Waddenzee.
- Case C-441/17 Commission v Poland (Białowieża Forest).
- Case C-2/07 Abraham; Case C-142/07 Ecologistas en Acción-CODA; Case C-205/08 Umweltanwalt von Kärnten.
- Case C-204/24 Commission v Ireland (20 November 2025).
- Directive 2000/60/EC, Articles 4 and 7, and Annex V.
- Houses of the Oireachtas, Joint Committee on Infrastructure, evidence of Uisce Éireann, 24 June 2026.
- Waterways Ireland, Marine Notice No. 56 of 2026, 25 May 2026.
- Case C-671/16 Inter-Environnement Bruxelles ASBL and Others (a plan-level assessment cannot be used to circumvent the assessment required at another tier).
- Case C-43/18 Compagnie d’entreprises CFE (tiering discharges a lower-tier assessment duty only where the higher-tier assessment sufficiently addressed the relevant interests).
- Case C-254/19 Friends of the Irish Environment (an Article 6(3) appropriate assessment cannot be regarded as appropriate if it contains gaps).
- Directive 2011/92/EU, Article 5(1)(d) and Annex IV (reasonable alternatives relevant to the project and its specific characteristics).

I respectfully ask the Commission to require further information, hold an oral hearing, and refuse permission if the Applicant cannot discharge the burden imposed by EU and Irish environmental law.