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SID Planning
An Coimisiún Pleanála
64 Marlborough Street
Dublin 1
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Planning Application Reference Number: ACP-324165-26

Applicant: Maughanaclea Ltd / Enerco

Description of Development: 10 year planning permission for Maughanaclea Wind Farm consisting of 14 no. wind turbines, a 110kV substation and 110kV underground cabling connection and associated works

Located in: Ardrah, Maughanaclea, Ballynamought, Gortloughra, Cousane, Coomclogh, Derragh, Glanycarney, Keenrath, Derrynacaheragh, Shiplough, Coolsnaghtig and other townlands Co. Cork

Executive Summary

This submission strongly objects to the proposed Maughanaclea Wind Farm and respectfully requests that An Coimisiún Pleanála refuse planning permission. This objection is grounded in significant legal, methodological, and ecological deficiencies within the applicant's Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS). Relying predominantly on the developer's own empirical data, this submission demonstrates that the project fails to meet the strict legal thresholds required for consent under EU and national environmental law.

The primary grounds for refusal are:

- **Fatal Flaws in the Natura Impact Statement (NIS):** The applicant unlawfully conflates compensatory measures with mitigation to pass a Stage 2 Appropriate Assessment. Relying on the post-consent management of adjacent land to offset the permanent excavation of protected habitat is a direct violation of established EU case law, specifically *Briels (C-521/12)* and *Grace & Sweetman (C-164/17)*. **[See Section 2]**
- **Destruction of Annex I Ex-Situ Habitat (Hen Harrier):** The developer admits the site serves as overwintering and foraging habitat for the Hen Harrier, a qualifying interest of the Mullaghanish to Musheramore Mountains SPA. Concluding "no adverse effect" while simultaneously displacing an Annex I species from functional supporting habitat violates both the precautionary principle (*Waddenzee C-127/02*) and the *Holohan (C-461/17)* ruling. **[See Section 3]**

- **Irreversible Destruction of Annex I Peatlands:** The proposed development demands the mass excavation of over 170,000 cubic meters of living peat. The applicant improperly sanitizes this permanent ecological and hydrological destruction by unilaterally dismissing empirically proven, active Sphagnum communities as "degraded" habitat. **[See Section 4]**
- **Mathematically Invalid Carbon Calculations:** The applicant's highly optimistic 3.4-year carbon payback period is fundamentally unbalanced. The developer's own methodology explicitly omits massive categories of carbon losses resulting from the clearance of non-bog carbon-fixing vegetation, rendering their climate justification scientifically invalid. **[See Section 5]**
- **Contradictory Hydrological Baseline and Drinking Water Risk:** The baseline data underpinning the assessment is fundamentally contradictory, failing to reconcile the existence of a river on the developer's own mapping. Furthermore, the developer artificially isolates the turbine footprint from its heavy supporting infrastructure to obscure severe risks to the Kealkill Public Water Supply tributary. **[See Section 6]**
- **Unmitigable Heritage Degradation and Economic Harm to the Gaeltacht:** The EIAR relies on fragmented, siloed methodologies to systematically downgrade statutory local landscape sensitivities and obscure severe visual and economic impacts. The developer explicitly admits that the kinetic dominance of 169m turbines will cause utterly unmitigable damage to the setting of National Monuments and critical regional tourism trailheads. Furthermore, the applicant systematically fails to assess the resulting economic degradation, fundamentally undermining the statutory *Gaeltacht Mhúscraí Tourism Development Plan* and destroying the "remote nature" that serves as a foundational economic asset for the region. **[See Sections 7 and 8]**
- **Direct Conflict with Prior Precedent:** The proposal flagrantly ignores prior An Bord Pleanála refusals on the Maughanaclea Hills (PL04.117606 and PL04.240461), which previously established this landscape's physical vulnerability and lack of carrying capacity for even much smaller turbine models. **[See Section 9]**

The applicant has failed to provide complete, precise, and definitive findings capable of removing reasonable scientific doubt regarding adverse effects on European site integrity. Consequently, under Article 6(3) of the Habitats Directive, consent cannot legally be granted.

1. Statement of Standing and Professional Expertise

My name is Lorna Mauney-Brodek. My husband and I reside at P75 Y765 in Inchiroe, located approximately 2km from the nearest proposed turbine infrastructure. We specifically purchased this property to continue its established legacy; for the past two decades, our home has been utilized to host nature and meditation retreats.

I am a professional herbalist and eco-tourism guide. My professional practice—and the continued operation of our retreat center—is predicated on the botanical integrity and the "High Sensitivity" landscape and cultural character of this region. I am one of several tour leaders who bring groups through the Kealkill area specifically to engage with its rare natural beauty and unique cultural heritage. This development represents a direct threat to my residential amenity and my professional livelihood.

I submit this objection based on significant deficiencies in the applicant's Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS). The issues identified arise directly from the applicant's own data and conclusions, and address whether the assessment provides complete, precise, and definitive findings capable of removing reasonable scientific doubt in accordance with Article 6(3) of the Habitats Directive.

2. Core Legal Failure: Inadequacy of the Natura Impact Statement (NIS)

Under Article 6(3) of the Habitats Directive, consent may only be granted where it is demonstrated, on the basis of complete, precise, and definitive findings, that the project will not adversely affect the integrity of a European site. The applicant's NIS fails this test of removing all reasonable scientific doubt as established in *Waddenzee (C-127/02)*.

- 2.1. **Admission of Potential to Undermine Conservation Objectives:** The developer explicitly admits in the NIS (Table 5-9) that the Proposed Project has the potential to undermine the conservation objective for the Hen Harrier in the "absence of mitigation". Specifically, the applicant concedes that "the potential for ex-situ habitat loss" could prevent the restoration of the breeding population for the Mullaghanish to Musheramore Mountains SPA.
- 2.2. **Misapplication of Mitigation vs. Compensation:** Under EU case law (*Briels C-521/12* and *Grace & Sweetman C-164/17*), measures intended to compensate for the loss of a protected habitat cannot be legally classified as "mitigation" to pass a Stage 2 Appropriate Assessment.
- 2.3. **Unlawful Reliance on the BMEP:** The developer's reliance on the Biodiversity Management and Enhancement Plan (Appendix 6-4) to offset the permanent excavation and destruction of peatland is a compensatory measure, not a mitigatory one. A promise to manage or enhance habitat elsewhere (such as in the vicinity of Turbine T06) is a post-consent strategy that cannot be used within the Natura Impact Statement to conclude "no adverse effect" on site integrity.
- 2.4. **The Geographical Fallacy and the Legal Definition of Compensation:** The applicant relies on the geographical proximity of the proposed habitat management to argue it constitutes mitigation. However, under the rulings of *Briels* and *Grace & Sweetman*, the proximity of a measure does not dictate its legal classification. Mitigation must prevent, reduce, or eliminate the impact on the specific habitat being affected. The construction of this development involves the permanent physical excavation, destruction, and localized displacement of confirmed ex-situ foraging habitat. "Optimising" or managing a different parcel of land nearby (e.g., at T06) does not reduce or prevent the destruction of the footprint habitat; it attempts to offset the permanent physical loss.
- 2.5. **Direct Conflict with *Grace & Sweetman (C-164/17)*:** The applicant's strategy is a direct parallel to the scenario explicitly rejected by the CJEU in *Grace & Sweetman*. In that case, which also involved wind farm development and Hen Harrier foraging habitat, the Court ruled that measures involving the active management and restoration of other areas within a site—designed to ensure that the overall foraging habitat was not reduced—were compensatory, not mitigatory. The applicant's

reliance on the BMEP to "optimise" adjacent habitats to make up for permanent footprint loss and displacement is a direct contravention of this ruling.

- 2.6. **Failure of Scientific Certainty regarding "Optimisation":** Even if the Board were to entertain the legally flawed premise that optimising nearby habitat constitutes mitigation, the applicant fails the *Waddenzee* test of scientific certainty. The assumption that displaced Hen Harriers will seamlessly relocate to "optimised" habitat at T06 relies on unproven variables: it assumes the adjacent habitat is not already at ecological carrying capacity, and it assumes wild Annex I species will predictably confine their foraging to artificial, managed zones adjacent to operating 169m industrial turbines. Because the successful uptake of this "optimised" habitat cannot be guaranteed beyond all reasonable scientific doubt, the competent authority cannot legally rely upon it.

3. Impacts on Hen Harrier (Annex I Species) and the Integrity of the SPA

The Hen Harrier (*Circus cyaneus*) is an Annex I species and a qualifying interest of the Mullaghanish to Musheramore Mountains SPA. Having established that the developer cannot rely on compensatory enhancements to offset damage, we must examine the raw, unmitigated damage to the habitat. The developer's NIS contains fatal legal and ecological flaws regarding the protection of this species, specifically concerning their attempts to dismiss the site as "transient" usage and relying on unsupported displacement assumptions.

- 3.1. **Destruction of Functional Supporting Habitat and the "De-Minimis" Fallacy:** Documentation confirms Hen Harrier activity within 500m of proposed turbines, with disturbance effects extending up to 1km (NIS, p.98). Chapter 7 Ornithology notes 19 observations of the birds hunting, foraging, and demonstrating roosting behavior on site. The developer attempts to dilute the severity of these records by comparing the raw number of flights against the total hours of survey effort, arguing the site represents mere 'transient' usage. This constitutes a legally flawed 'de minimis' argument. As established by the CJEU in *Sweetman* (C-258/11), the loss of functional ecological supporting habitat cannot be dismissed simply because the mathematical footprint or statistical frequency appears proportionately small. The Board must firmly reject this statistical misdirection, as it is directly contradicted by the applicant's own qualitative ecological finding that the birds are actively overwintering here.
- 3.2. **Destruction of Functional Ex-Situ Overwintering Habitat (*Holohan* C-461/17)** Furthermore, the developer concedes in their own assessment that it is "reasonable to conclude" that the adult male, adult female, and juvenile bird observed during the post-breeding period "remained in the vicinity of the Proposed Wind Farm to overwinter" (Chapter 7-40). This is a critical ecological admission. It legally elevates the site from a transient "flyover" zone to an established, functional overwintering and foraging ground for an Annex I species. Juvenile survival over their first winter is the most critical bottleneck for Hen Harrier population dynamics. Displacing a juvenile from an established wintering ground directly impacts the mortality rate of the species. Under the *Holohan* ruling, the Board must assess impacts on habitats outside a European site if they functionally support the site's species. Destroying or displacing birds from a confirmed overwintering habitat that supports the SPA

population constitutes an adverse effect on site integrity that cannot be legally sustained.

3.3. **Unlawful Exclusion of Ex-Situ Foraging Habitat:** On page 91 of the NIS, the developer explicitly admits: "potential for adverse effects on birds [Hen Harrier] which may use this SPA for breeding requires further consideration. Potential for Adverse Effects YES". However, the conclusion on pages 98–99 abruptly shifts to "no potential for adverse effect". This irreconcilable shift appears predicated on the assumption that because active *breeding* is not occurring within the immediate development footprint, the displacement of the birds is acceptable. This rationale represents a fundamental misapplication of EU environmental law. Under the *Holohan* principle (C-461/17), the competent authority must assess impacts on habitats located outside a European site if those habitats functionally support the site's qualifying species. The developer's own data confirms the site serves as vital ex-situ foraging and roosting habitat for the SPA population. The absence of a physical nest does not negate the ecological value of the food supply required to sustain that population. Admitting to the destruction and displacement of known supporting habitat while concluding "no adverse effect" on the SPA is legally invalid and scientifically unsound.

3.4. **Unsupported Displacement Assumptions and the 'De Minimis' Fallacy:** To justify the displacement of these overwintering birds, the developer relies on the legally flawed assumption that the physical footprint of the development is small enough to be inconsequential. They explicitly dismiss the impact as acceptable because it accounts for a mere "4%" of the site (NIS, p. 97). This mathematical misdirection directly violates the precedent established by the CJEU in *Sweetman v. An Bord Pleanála* (C-258/11).

In *Sweetman*, the Court firmly rejected the '*de minimis*' argument that a proportionally small spatial loss could be dismissed as insignificant, establishing that the permanent loss of functional habitat constitutes an adverse effect regardless of its statistical percentage. When read along with the *Holohan* (C-461/17) ruling—which affords strict protection to functional *ex-situ* supporting habitats—the developer's reliance on a 4% threshold is legally void.

Furthermore, the developer assumes that displaced birds will simply relocate because similar habitats "are abundant in the wider surrounds." This assumes that nearby habitat is not already at carrying capacity, an assumption previously rejected in Board decisions (e.g., ABP-305163-19). Forcing an overwintering juvenile Hen Harrier to abandon its established hunting ground and compete for resources in unfamiliar territory induces severe energetic stress. By admitting to a 4% permanent displacement while failing to empirically prove that surrounding habitats can safely absorb these protected birds, the applicant fails the strict legal test of removing reasonable scientific doubt.

3.5. **Failure of the Precautionary Principle Regarding Species Origin (Waddenzee C-127/02):** The applicant explicitly acknowledges that the origin of the observed Hen Harriers is unknown, conceding that "it is possible that they originated from the

Mullaghanish to Musheramore Mountains SPA" (NIS, p.91). The developer's own EIA data explicitly acknowledges the presence of a juvenile Hen Harrier foraging on the Proposed Wind Farm site during the post-breeding dispersal period in September 2022. The applicant concedes that juvenile dispersal for this species typically involves a "sudden, long-distance (>25km) initial movement away from the natal area". (EIA Chapter 7, p.7-41). Because the SPA is located approximately 20km from the site, potential connectivity falls squarely within this established biological range. Despite this admitted uncertainty and spatial overlap, the developer unlawfully excludes connectivity to conclude "no potential for adverse effect" (NIS, p.98-99). Under Article 6(3) of the Habitats Directive, as interpreted by the CJEU in *Waddenzee* (C-127/02), where scientific uncertainty remains regarding a risk to a European site, the precautionary principle mandates that an adverse effect must be presumed. The developer's conclusion is therefore legally defective, as it relies on an absence of origin data to dismiss a risk, thereby failing the strict legal test of removing all reasonable scientific doubt.

- 3.6. **Conflict with "Restoration" Objectives:** The legally binding conservation objective for the SPA is to *restore*, not merely maintain, the Hen Harrier population. Destroying acknowledged *ex-situ* wintering and foraging habitat directly hinders this goal. A project cannot be granted consent if it impedes the restoration of an Annex I species to favourable conservation status; a population cannot be restored while its food supply is concurrently destroyed.
- 3.7. **Failure of the Precautionary Principle Regarding Conservation Targets (*Waddenzee* C-127/02):** The developer has explicitly answered "Yes" to the potential for the project to undermine the SPA's conservation targets. Under the *Waddenzee* ruling, consent can only be granted if the competent authority is convinced beyond all reasonable scientific doubt that mitigation will completely eliminate this risk. Given the inherent unpredictability of Hen Harrier displacement and the permanent physical loss of acknowledged *ex-situ* habitat, it is scientifically impossible for the developer to prove beyond a reasonable doubt that this admitted threat will be neutralized.

4. Irreversible Destruction of Peatland and Annex I Habitats

The proposal requires the direct excavation and permanent removal of Annex I habitats, including wet heath (HH3) and upland blanket bog (PB2).

The applicant attempts to justify the permanent physical destruction of peatland habitats by systematically labelling them as "degraded" and characterizing the mass excavation of peat as a "standard geotechnical practice" intended to stabilise hydrology. A review of the applicant's own raw data reveals this to be a profound misrepresentation of the ecological and physical reality of the Proposed Project.

- 4.1. **The Scale of Annex I Peatland Destruction** The applicant attempts to minimize the ecological damage by isolating the destruction of Upland Blanket Bog (PB2) to a 0.2-hectare footprint at the Turbine 14 access road. This artificial isolation is a clear example of project splitting, ignoring the broader destruction of the site's integrated peatland ecosystem. The applicant's own data confirms that Turbines T04 and T14,

their associated hardstands and access roads, and the northern temporary construction compound will be built directly on top of Wet Heath (HH3). Wet Heath and Upland Blanket Bog are intrinsically linked, peat-based Annex I protected habitats. By grouping these losses to assess the true cumulative footprint, the developer's own layout demands the direct excavation and destruction of approximately 1.8 to 2.2 hectares of Annex I peatland habitats.

4.2. **Contradiction of the "Degraded" Classification by Empirical Botanical Data:**

The applicant relies heavily on the assertion that these areas of Wet Heath (HH3) and Upland Blanket Bog (PB2) are "degraded" due to historic turbary activity and intensive sheep grazing. By unilaterally categorizing these areas as degraded, the applicant seeks to bypass the strict protections afforded to active, peat-forming systems. However, the applicant's own botanical survey data contradicts their ultimate conclusions.

4.2.1. **Empirical Evidence of Peat-Forming Communities:** In Appendix 6-1 (Botanical Survey Report), the relevé data for the T14 access road explicitly records the presence of multiple *Sphagnum* moss species, including *Sphagnum rubellum*, *Sphagnum tenellum*, and *Sphagnum cuspidatum*, alongside *Eriophorum vaginatum* (Hare's-tail cottongrass). These are the definitive, keystone indicator species of an active, functioning, and peat-forming ecosystem. Furthermore, the applicant's own baseline data demonstrates that *Sphagnum* presence is systemic across the site, having been documented at 10 of the 14 proposed turbine locations.

4.2.2. **Empirical Proof of Active Priority Blanket Bog and Violation of EU Habitat Thresholds:** The developer's attempt to downgrade the footprint habitat to "inactive" or "degraded" to justify infrastructure development directly conflicts with the European Commission's Interpretation Manual of European Union Habitats (EUR 28). The manual explicitly states that "active" status simply requires the habitat to "still support a significant area of vegetation that is normally peat forming."

The applicant's own empirical botanical data (Appendix 6-1, Table 3-24) comprehensively proves this threshold is met. Relevé data recorded along the proposed T14 access road footprint explicitly documents active, peat-forming *Sphagnum* communities across all surveyed plots.

- Plot 1 records an 18% total *Sphagnum* cover
- Plot 2 records a 20% total *Sphagnum* cover (comprising *S. rubellum*, *S. tenellum*, and *S. cuspidatum*)
- Plot 3 records a 10% cover.
- Furthermore, these keystone mosses are recorded growing in association with *Eriophorum vaginatum* (Hare's-tail cottongrass) and *Andromeda polifolia* (Bog rosemary).

A 10% to 20% coverage of *Sphagnum* species constitutes a significant, functioning layer of peat-forming vegetation. The applicant cannot record

up to 20% active *Sphagnum* cover in their raw relevé tables and subsequently dismiss the habitat as functionally dead or "degraded" in their conclusions. Under EU environmental law, the fact that a habitat is currently under pressure from historic grazing or turbarry does not extinguish its conservation status, its potential for restoration, or its classification as Priority habitat. The biological mechanism for peat formation remains demonstrably present, proving this is a living, carbon-sequestering ecosystem (Priority 7130 Active Blanket Bog) that warrants full legal protection from excavation.

- 4.3. **The "Peat Relocation" Fallacy and the Destruction of Hydrological Integrity:** The applicant attempts to sanitize the destruction of this habitat by characterizing peat relocation as a "standard, EPA-approved geotechnical and ecological practice" that will stabilise hydrology. This narrative is entirely irreconcilable with the sheer scale of the proposed excavation. In Chapter 8 (Land, Soils and Geology), Table 8-10, the applicant concedes that the Proposed Project will require the excavation of a staggering **173,420 cubic meters of peat**.

To manage this, the applicant proposes to move "weak/liquified peat" into designated "peat and spoil management areas" where it will be piled up to 1.5m in height. Extracting over 170,000 cubic meters of living bog and piling liquified peat into localized, 1.5m-high storage areas does not "stabilise" the hydrology of the landscape; it physically severs the peat from its foundational hydrology. A blanket bog relies on an unbroken, continuous, and delicate hydrological gradient to maintain its anaerobic, carbon-storing conditions. When peat is mechanically excavated, aerated, and relocated into raised storage berms, it inevitably loses its structural integrity, dries out, and oxidizes. The Board must reject the applicant's attempt to disguise the mass excavation and permanent oxidation of a 173,420-cubic-meter carbon sink as a benign geotechnical stabilization exercise. This represents a massive, unmitigated permanent loss of habitat and carbon storage.

The mass excavation and irreversible alteration of over 170,000 cubic meters of living peat cannot be reconciled with sustainable development or genuine climate action. In their formal policy advice to the Government regarding national wind energy development, the Irish Peatland Conservation Council (IPCC)—Ireland's leading authority on peatland ecology—stated unequivocally: "If a peatland needs to be drained for a development then the development is in the wrong place. If a windfarm is proposed on a designated site it is also in the wrong place." By proposing heavy industrial infrastructure on active Annex I blanket bog that requires mass drainage and excavation, the developer has fundamentally chosen the wrong location for this project.

Under the EIA Directive, the permanent excavation and loss of active Annex I habitats such as Blanket Bog represents a significant, unmitigable ecological impact that cannot be artificially downgraded through 'degraded' classifications.

5. Climate Impact and Carbon Debt Flaws

The developer attempts to justify the Proposed Project by relying on its role in facilitating Ireland's "transition to a low-carbon economy" and assisting the State in reaching "net-zero emissions no later than 2050" (EIAR Chapter 11). To support this, the developer claims a highly optimistic carbon payback time of just 3.4 years (40.4 months) (EIAR Chapter 11, p. 11-28). However, a review of the applicant's own Carbon Calculations (Appendix 11-2) reveals that this figure is mathematically incomplete and artificially suppressed through the deliberate omission of carbon losses.

- 5.1. **Misleading Application of "Average" Peat Depth:** While the geotechnical stability calculations correctly use maximum recorded peat depths, the carbon impact assessment relies on a drastically underestimated site-wide average depth of only 0.6m. This mathematical oversimplification deliberately hides the massive release of stored carbon triggered by excavating deep-peat reservoirs across the development footprint. A review of the developer's own raw data (Appendix 8-1, p. 23) reveals massive deep-peat excavations required at multiple locations: T07 (average depth 1.9m), T09 (average 1.5m), T11 (average 1.5m), and the Southern Temporary Construction Compound (average 1.9m). These depths are up to triple the 0.6m site-wide average used to calculate carbon release. This proves the carbon debt is systemically under-reported across the entire site design, rendering the 3.4-year payback calculation mathematically invalid.
- 5.2. **Exclusion of Carbon-Fixing Vegetation from the Balance Sheet:** The developer's 3.4-year payback calculation relies on a severely truncated estimate of total carbon losses (149,785 tonnes). However, in Appendix 11-2 (Page 33), the developer's "List of Assumptions" explicitly admits that *"Carbon losses associated with the removal of other carbon-fixing vegetation will result in additional carbon losses... [these] have not been considered in assessment or quantified"*.
- 5.3. **Omission of Embodied Carbon from Electrical Infrastructure:** To calculate the embodied carbon of the project's construction materials, the developer relied on the Transport Infrastructure Ireland (TII) Carbon Tool—a model designed for roads and light rail, not energy generation plants. As a direct result, the developer explicitly admits in their "List of Assumptions" (Appendix 11-2, p. 22) that the "Embodied carbon of electrical equipment [is] not included as an option in TII Carbon Tool" for either the internal ducting and cabling or the grid connection cable laying. Consequently, the carbon footprint of massive electrical infrastructure—including kilometers of underground grid connection cables, on-site substation equipment, and heavy internal wiring—is entirely missing from their 12,950-tonne embodied carbon estimate. The developer's own text in Chapter 11 (p. 11-27) confirms this 12,950-tonne figure relies strictly on 'materials available in the TII Carbon tool such as, concrete, steel, cement and granular fill,' completely ignoring the primary electrical components of the power plant. This represents a staggering omission that artificially shrinks the total carbon debt.
- 5.4. **Failure to Quantify True Ecological Destruction:** The developer concedes that the Proposed Project will result in the removal of multiple habitat types (including grasslands, hedgerows, and scrub) that currently act as carbon sinks, but claims the

"exact carbon loss is not quantifiable". By the developer's own admission, the carbon ledger presented to the Board is fundamentally unbalanced. They have tallied 100% of the anticipated carbon *savings* from the turbines but have deliberately excluded whole categories of carbon *losses* caused by the destruction of the existing environment.

- 5.5. **Unreliable Carbon Payback Period and Fundamental Mathematical Errors:** The developer's stated 3.4-year payback period is scientifically and mathematically invalid. Not only has the developer explicitly refused to quantify the full scope of carbon losses from vegetation clearance and electrical infrastructure, but their official technical submission is plagued by catastrophic data-entry errors. In their own Carbon Calculations (Appendix 11-2, p. 4), the developer incorrectly entered the Capacity Factor as **"0.37"** in a percentage field. This fundamental error caused their model to calculate an annual energy output of a mere 2,178 MWh and generated a summary dashboard asserting a carbon payback time of roughly **60 years** against a 35-year project lifespan.

While the developer attempts to manually calculate a different number in the written EIAR (Chapter 11), the fact that an official technical appendix was submitted with a fatal mathematical error—one that formally records the project as a massive carbon liability—demonstrates a severe lack of rigorous quality control. The Board cannot safely rely on the applicant's carbon assessment to grant consent under the Climate Action and Low Carbon Development (Amendment) Act 2021 when the submission relies on inappropriate modeling tools, deliberately excludes known carbon losses, and exhibits fundamental mathematical errors that render the assessment scientifically unreliable..

6. Hydrological Impacts and Data Gaps

Construction will require drainage infrastructure, interceptor drains, and settlement ponds, indicating anticipated peat disturbance and hydrological alteration.

- 6.1. **Contradictory Baseline Data and Drinking Water Risk (Turbine T04):** The EIAR demonstrates a severe lack of cross-disciplinary coordination, rendering the baseline data fundamentally unreliable. In Appendix 6-1 (Section 3.1.6, p. 18), the ecological team attempts to downgrade the sensitivity of the T04 access road crossing by dismissing it as an "unmapped watercourse" while excavating through Wet Heath (HH3). However, Chapter 9 explicitly limits the number of new crossings in the entire northern cluster to exactly one, which it defines as the access road to T04. Crucially, Chapter 9 (Section 9.3.5) elevates this exact, singular location to a "headwater stream of the Owngar River". The developer cannot legally have it both ways: they cannot downgrade the ecological sensitivity of a crossing in one chapter, while simultaneously acknowledging it as a direct tributary to a highly sensitive public drinking water supply in another.

Furthermore, Chapter 9 explicitly identifies the Owngar River as the direct source of the Kealkill Public Water Supply, located just 2km downstream. The developer attempts to artificially sanitize this risk by isolating the turbine footprint from its supporting infrastructure, claiming that Turbine 4 is "setback more [sic] 75m from a

watercourse" (Section 9.6.2.2). This is a severe methodological misrepresentation. While the turbine base itself may technically sit 75m away, the developer explicitly admits in Section 9.6.2.8 that the heavy infrastructure access road required to build T04 physically spans the very watercourse that supplies Kealkill's drinking water. Using a turbine setback metric to obscure the direct intersection of heavy construction traffic with a public drinking water tributary invalidates the assessment of hydrological risk.

- 6.2. **Systemic Risk:** The Department of Housing, Local Government and Heritage Scoping Response (Appendix 2-2, p.4-5) warned that "potential annexed habitat may have been missed" and that "any impact on water table levels or groundwater flows may impact on wetland sites some distance away". Without fully mapped hydrological pathways, adverse impacts on dependent peatland systems cannot be excluded.

7. Degradation of Cultural Heritage, Tourism Assets, and the Gaeltacht Economy

The Proposed Project will severely impact the cultural, visual, and recreational value of the region. The applicant attempts to justify these impacts by relying on fragmented methodologies, exploiting strict LVIA definitions, and artificially separating archaeological monuments from their functional role in the modern tourism economy. A close examination of their own Environmental Impact Assessment Report (EIAR) reveals a systematic downgrading of highly sensitive assets.

- 7.1. **Direct, Permanent Destruction of Archaeological Remains (Turbine T03):** While much of the developer's assessment focuses on downgrading indirect visual impacts, the physical reality of the site layout requires the eradication of heritage. The developer's own EIAR (Chapter 14, p. 14-66) explicitly admits that ground disturbance for the construction of Turbine T03 and its hardstand will have a "direct, negative (permanent), significant effect" on CH55. This sub-rectangular enclosure is part of a wider historic field system linked to recorded monuments AH59 and AH60. Direct, permanent physical destruction of archaeological remains is a severe and unmitigable impact that renders this specific turbine location fundamentally unsuited for development.
- 7.2. **Truncated Assessment of Heritage-Tourism Linkages (Kealkill/ Carriganass Castle - Sheep's Head Way & Beara-Breifne Way Convergence):** The Tourism Impact Assessment contains a critical omission by failing to recognize Kealkill's role as a vital trailhead and functional node. In Chapter 14, the EIAR assesses the indirect visual impact on Carriganass Castle (AH144) strictly as a localized impact on an isolated architectural monument. While the applicant concedes a "Moderate negative" visual effect on the structure, this represents a methodological failure to assess the site's systemic value to the regional tourism economy.

Empirical tourism data establishes Carriganass Castle not as an incidental waypoint, but as a primary infrastructural anchor. Following the destruction of the clan's principal seat at Dunboy in 1602, Carriganass stands as the preeminent surviving stronghold of the O'Sullivan Beare clan. It physically embodies the tragic

genesis of Donal Cam's historic march, thereby providing the foundational, tangible narrative for the Beara-Breifne Way. Furthermore, the site functions as a multi-trail convergence point for the Beara-Breifne Way, the Slí Gaeltacht Mhúscraí, the Sheep's Head Way, and the St. Finbarr's Pilgrim Path, while serving as an official passport stamping station. By legally decoupling the physical monument from its functional role as the historical and logistical anchor of a national tourism network, the EIAR artificially isolates the impact. Consequently, the assessment fails to evaluate the subsequent economic degradation of the broader recreational and socio-economic asset.

To visually substantiate this, note the photograph provided below, which captures the physical signpost at this critical juncture. This single post explicitly demonstrates the dense convergence of national and regional tourism assets, directing users simultaneously to: the Beara-Breifne Cycle Route, the Slí Gaeltacht Mhúscraí walking trail (linking to Guagán Barra), the Sheep's Head Way (indicated by its official trail icon), and direct walking loops to both Carriganass Castle (noted as a link to the Beara Way) and the Kealkill Stone Circle.



7.3. **Misrepresentation of Tourism Data and Reliance on Outdated Metrics:** The applicant's Tourism Impact Assessment attempts to dilute the severity of the visual impact on tourists by relying on Fáilte Ireland's 2012 "Visitor Attitudes on the Environment: Wind Farms" report, claiming that almost half of visitors felt wind farms had no impact on their holiday. This reliance is methodologically unsound and scientifically invalid for two critical reasons:

7.3.1. **Deliberate Omission of Negative Trajectories:** A review of the applicant's preferred dataset reveals a clear trajectory of deteriorating tourist reception. The Fáilte Ireland data explicitly demonstrates that between the 2007 and 2012 surveys, the percentage of visitors reporting that viewing a wind farm had a "negative impact" on their sightseeing increased substantially from 15% to 21%. Concurrently, those reporting a "positive impact" plummeted from 40% down to 32%. Furthermore, visitors stating that further wind farms would negatively impact their

operational jobs, and a Community Benefit Fund. However, this presents a false economic equivalence. For context, Fáilte Ireland data establishes that the South West region generates over €1.5 billion in annual tourist spend—a regional economy fundamentally reliant on the unspoilt, heritage-rich landscapes this project threatens. Furthermore, the State is actively investing heavily to capitalize on the Múscaí Gaeltacht's unique brand, evidenced by the recent €10 million State-backed regeneration of Campas Íosagáin. Short-term construction employment and localized community funds do not replace or offset the permanent structural degradation of a regional tourism economy. The applicant relies on easily quantifiable short-term metrics while deliberately ignoring the long-term economic damage to the Gaeltacht's foundational assets.

- 7.6.2. **Conflict with Statutory Tourism Plans:** This methodological failure fundamentally ignores the formally adopted *Gaeltacht Mhúscraí Tourism Development and Implementation Plan (2022)*. This State-funded strategy is explicitly predicated on "safeguarding the unique culture, heritage and biodiversity of the area". It designates the region's "Scenery, mountains, lakes & natural heritage" as a primary economic strength, clearly defining its Unique Selling Proposition (USP) as its "remote nature, beauty and outdoor activities". The local economy relies heavily on this unindustrialized, traditional character to attract targeted demographics, specifically "Great Escapers" seeking rural, off-the-beaten-track experiences.
- 7.6.3. **Destruction of the Core Economic Commodity:** Nowhere in the EIAR does the applicant assess the economic fallout of eradicating this "remote nature". Imposing a kinetic, skyline-dominating industrial wind farm into this environment does not merely alter the view; it actively destroys a foundational economic asset required to successfully implement the region's statutory tourism strategy. The applicant's failure to synthesize these chapters to evaluate the resulting economic harm to the community renders the EIAR fundamentally incomplete and unfit for purpose.
- 7.6.4. **The 'Administrative Fallacy':** Furthermore, any attempt by the applicant to dismiss these impacts on the grounds that the physical turbine footprint sits marginally outside the official administrative boundary of the Gaeltacht represents a profound 'Administrative Fallacy.' The kinetic visual dominance of 169m industrial structures—and the resulting economic degradation of the region's 'remote nature'—do not conveniently cease at a line on a map.

8. Methodological Deficiencies in the Landscape and Visual Impact Assessment (LVIA)

To artificially minimize the severe cultural, recreational, and economic impacts established in Section 7, the applicant relies on an LVIA methodology plagued by systemic bias and

contradictory data. Rather than objectively evaluating the landscape's carrying capacity, the assessment misapplies strict LVIA definitions to systematically downgrade statutory sensitivities and obscure the visual dominance of the infrastructure.

- 8.1. **Methodological Bias and the Artificial Capping of Heritage Impacts:** The EIAR relies on a mathematically flawed impact assessment matrix to systematically downgrade the visual impact of the turbines on highly sensitive archaeological sites. In Chapter 14, Table 14-3, the developer defines "Medium" and "High" magnitudes almost exclusively through the lens of direct physical alteration, while explicitly defining a "Low" magnitude as an impact causing changes to the environment "such as a visual impact". By hard-coding visual impacts as inherently "Low" magnitude, the developer creates an artificial ceiling, ensuring that no visual impact can ever trigger a "Significant" rating in their matrix (Table 14-4).

Consequently, National Monuments and Preservation Order sites, such as the Kealkill Stone Circle (AH157) and the Breeny More Stone Circle (AH160), are assigned a "Moderate negative" effect, despite being located just 2.1km to 2.4km from 169m industrial turbines. The applicant may attempt to argue that because the physical stones remain untouched, standard EIA practice dictates a lower impact rating. This is a profound misrepresentation of prehistoric heritage. Stone circles are fundamentally defined by their perceptual integrity, viewsheds, and landscape alignments. Imposing the kinetic, visual, and auditory dominance of 169m rotating blades over these ancient ritual landscapes effectively destroys their setting. The developer's methodology predetermines that visual dominance can never be classified as significant, representing a profound failure of objective environmental assessment.

- 8.2. **The "Skylining" Fallacy as Mitigation:** To justify the visual intrusion on these critical heritage and recreational routes, the applicant's LVIA argues that the turbines are "mostly viewed above the horizon" and therefore "do not obstruct or intrude upon highest quality views" (*EIAR Chapter 13, Assessment of Slí Gaeltacht Mhúscraí and Meallagh Valley Loop*). The applicant frames this "skylining" as a design mitigation, arguing that placing the turbines against the sky preserves the backdrop of the High Value Landscape (HVL LCT4). The developer repeats this exact, legally flawed rationale to dismiss a formally assessed "Significant" impact at Viewpoint 3 (Coomleagh West), noting again that the turbines are "mostly viewed above the horizon"..

The Board must reject this framing. "Skylining" 14 massive, 169m moving industrial structures is not a mitigation strategy; it is a visual amplification. As recognized by standard landscape assessment principles (GLVIA3), placing a structure on the skyline maximizes its visual prominence due to the stark contrast between the structure and the sky. Furthermore, using this as a mitigating factor directly violates Cork County Development Plan Objective GL 14-9(d), which explicitly mandates the protection of "skylines and ridgelines from development". While the layout may technically avoid placing the turbines in the direct sightline of the distant western mountains, it thoroughly industrializes the immediate skyline defining the Kealkill, Carriganass, and Gaeltacht Mhúscraí historic landscapes. Moving rotor blades silhouetted against the sky command the human eye, ensuring the turbines become

the inescapable focal point of the area and directly violating the very concept of visual "mitigation". A developer cannot formally concede a "Significant" impact on a national trail and then arbitrarily dismiss it using flawed LVIA rationale.

8.3. Unlawful Conflation of Landscape Sensitivity and Administrative "Renown":

The developer systematically suppresses visual impact significance by unilaterally overriding statutory designations and unlawfully conflating landscape "Sensitivity" with administrative "Importance" (or "renown").

- 8.3.1. **Downgrading LCT 15a:** In Section 13.4.1.1.3 of the EIAR, the developer explicitly acknowledges that Appendix F of the Cork County Development Plan (CCDP) designates Landscape Character Type 15a as having a "High" Landscape Value and a "High" Landscape Sensitivity. However, in assessing the actual visual impact (Table 13-16), the developer overrides the local authority's statutory designation, artificially downgrading the LCA Sensitivity to "Medium". To justify this downgrade, the developer conflates "Sensitivity" with "Importance," arguing that because the landscape is of "Local Importance" rather than National, it has a lower susceptibility to change.

This is a profound methodological flaw. "Importance" is an administrative designation, whereas "Sensitivity" dictates the physical and visual capacity of the landscape to absorb 169m industrial infrastructure. By unilaterally downgrading the landscape sensitivity from "High" (as democratically established in the CCDP) to "Medium" in their LVIA, the developer systematically suppresses the resulting visual impact significance, thereby misrepresenting the true visual effect of the development on the receiving environment."

- 8.3.2. **Dismissing Viewpoint 3 (Sheep's Head Way):** The developer uses this exact same administrative fallacy to neutralize a formally assessed "Significant" impact. In Appendix 13-3, the assessment for Viewpoint 3 (Coomleagh West)—located on both the Sheep's Head Way and Mealagh Valley Loop—explicitly rates the receptor sensitivity as "High," the magnitude of change as "Moderate" (spanning the entire field of view), and the resulting visual effect as "Significant". The developer attempts to arbitrarily dismiss this finding by stating that the turbines "do not obstruct or intrude upon any scenic views of county, regional or national renown". This assertion is factually indefensible, as the Sheep's Head Way is an internationally recognized, award-winning trail that forms a critical junction with the Beara-Breifne Way. Claiming that views from this national trail network lack "regional or national renown" to dismiss a significant impact is an arbitrary and legally flawed maneuver.

8.4. Failure to Assess the Kinetic Visual Experience and Route Screening

Contradictions: The visual impact assessment relies on static viewpoints, fundamentally failing to assess the sequential, persistent visual dominance of 169m turbines for recreational users actively moving along these national trails. The

applicant repeatedly attempts to downplay visual impacts by arguing that the turbines are located in the 'opposing direction' (VP4), on the 'periphery' of scenic views, or simply do not obstruct the 'highest quality views' (VP18). This demonstrates a fundamental misunderstanding of recreational and heritage tourism. Historic landscapes and walking trails are immersive, 360-degree experiences; claiming that a massive kinetic intrusion is mitigated simply because a visitor can turn their back to the industrialization, or focus only on the 'highest quality' sightlines, is an absurd standard of assessment that fails to grasp how these environments are actually experienced by users.

Furthermore, the developer relies on localized topography and vegetation to mitigate this visual impact, but the applicant's own Route Screening Analysis (EIAR Chapter 13, Section 13.3.3) materially contradicts this reliance. The developer's empirical data confirms that "Little/No" visual screening was recorded along 57% of the surveyed roads (comprising 52km of the network). When combined with "Intermittent/Partial" screening (25%), a cumulative 82% of the surveyed road network lacks dense or full screening. By the developer's own measurement, the vast majority of the local road network—and by extension, the recreational trails that utilize these routes—will experience high visual exposure to the infrastructure. Concluding that visual impacts are "Moderate" or "Acceptable" when 57% of the surrounding road network offers "Little/No" screening to 169m turbines represents a fundamental discrepancy between the applicant's raw data and their final assessment conclusions. A 57% exposure rate means that for the majority of their journey, kinetic receptors—specifically slow-moving hikers and cyclists utilizing the region's national trails—will be subjected to continuous, unbroken views of a massive industrial wind farm. Exposure on this scale equates to an unacceptable adverse impact on the recreational amenity of the region.

9. Inconsistency with Planning Policy and Prior Precedent

The proposed development sits in direct conflict with the Cork County Development Plan 2022-2028 and ignores previous Board rulings on this exact landbank. The applicant attempts to justify the Proposed Project by heavily relying on the Climate Action and Low Carbon Development (Amendment) Act 2021 and the National Planning Framework (NPF), arguing that overarching national mandates for renewable energy essentially override the Cork County Development Plan 2022-2028 and render previous Board refusals obsolete. A presumption in favor of renewable energy does not extinguish the requirement for site-specific suitability, nor does it grant immunity from local environmental thresholds.

- 9.1. **Encroachment on Discouraged Areas:** The southwest border of the site and the proposed grid connection route encroach upon areas designated as "normally discouraged" or "strategically unsuitable" for wind energy.
- 9.2. **Prior Refusal (PL04.117606 / PA Ref 99/5557):** The Board previously refused a wind farm on these exact hills, citing the location as an "unspoilt exposed upland area in a rural scenic landscape of amenity, tourism and recreational potential, and visible from a public road which is a designated scenic route".

- 9.3. **Prior Refusal (PL04.240461 / PA Ref 11/318):** The Board refused development here noting that areas not within a "Strategic Search Area" but adjacent to "Strategically Unsuitable Areas" are normally discouraged.
- 9.4. **Scale and Visual Obtrusion:** The current proposal features significantly larger turbines, making it even more visually obtrusive than the previously refused projects.
- 9.5. **Invalid Dismissal of Prior Precedents:** The applicant may attempt to dismiss Board rulings on this exact area—specifically prior refusals **PL04.117606 (PA Ref 99/5557)** and **PL04.240461 (PA Ref 11/318)**—as artifacts of an obsolete planning era. However, while national planning frameworks have evolved, the physical and topographical realities of this landscape have not.

In PL04.117606, the Board explicitly refused development on these hills because they constitute an *"unspoilt exposed upland area in a rural scenic landscape of amenity, tourism and recreational potential, and visible from a public road which is a designated scenic route."* That geographical fact remains as true today as it was then. The only material change to the site since the 2011 refusal (PL04.240461) is the applicant's proposal to use exponentially larger, 169m industrial turbines. If the landscape lacked the visual and ecological carrying capacity to absorb older, smaller turbine models, it fundamentally cannot absorb 169m structures. National climate policy does not erase the physical vulnerability of a landscape.

- 9.6. **Structural Flaws Undermining Climate Policy Override:** Furthermore, as demonstrated in Section 5, the applicant's own data indicates the project is structurally flawed in its carbon payback calculations, thereby undermining the very climate justification they rely upon to bypass these historical precedents.

10. Conclusion

The proposed Maughanaclea Wind Farm represents an unacceptable and unmitigable threat to the ecological integrity, cultural heritage, and "High Sensitivity" landscape of this region and the adjacent Gaeltacht. Furthermore, the applicant's climate justification is fundamentally undermined by their own mathematically incomplete carbon calculations.

It is anticipated that the applicant may attempt to portray the severe ecological and heritage conflicts at Turbine 14 as an isolated issue, potentially amenable to omission by planning condition. The Board must firmly reject this framing. The developer's own empirical data confirms systemic layout failures across the entire landbank: from direct, permanent archaeological destruction at T03, to undocumented hydrological risks at T04, to massive deep-peat carbon excavations at T07, T09, T11, and the Southern Compound, and direct infrastructure overlap with Upland Blanket Bog at T01, T02, and T12. These are not localized anomalies; they are symptomatic of a landscape lacking the physical capacity to absorb this infrastructure. A fundamentally flawed, systemically destructive site design cannot be cured by simply conditioning out a single turbine.

Most critically, the applicant's Natura Impact Statement fails to meet the strict legal thresholds set by Article 6(3) of the Habitats Directive and established EU case law. Because the applicant

relies on unlawful compensatory measures disguised as mitigation, and cannot remove all reasonable scientific doubt regarding the displacement of Annex I species and the destruction of their functional supporting habitats, An Bord Pleanála is legally precluded from granting consent.

For these reasons, and to prevent irreversible damage to both active Annex I peatlands, regional tourism and Gaeltacht economy, I respectfully request that the Board refuse planning permission for this development.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Mauney-Brodek', written in a cursive style.

Lorna Mauney-Brodek